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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 MICHAEL McGLONE, et al.,

4 Plaintiffs,

5 v.

11 CV 3004 (JSR)

6 CONTRACT CALLERS INC., et al.,

7 Defendants.

Jury Trial

8 -----x
9 New York, N.Y.
May 18, 2015
10:12 a.m.

10 Before:

11 HON. JED S. RAKOFF,

12 District Judge

13 APPEARANCES

14 MANDEL BHANDARI LLP
15 Attorneys for Plaintiffs
BY: RISHI BHANDARI
16 ROBERT GLUNT
DONALD CONKLIN
17 -and-
ANDERSON DODSON, P.C.
BY: PENN DODSON

19 THE ENTERPRISE LAW GROUP
20 Attorneys for Defendants
BY: LAWRENCE WITTELS
IRA BLANK

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1 (Case called)

2 THE DEPUTY CLERK: Will the parties please identify
3 themselves for the record.

4 MR. BHANDARI: Good morning, your Honor. My name is
5 Rishi Bhandari from the law firm of Mandel Bhandari, LLP, and
6 with me is my colleague Robert Glunt and my co-counsel Penn
7 Dodson and one of the plaintiffs Robert Schantz.

8 THE COURT: Good morning.

9 MR. BHANDARI: Good morning.

10 MR. WITTELS: Good morning, your Honor. I am Lawrence
11 Wittels from the Enterprise Law Group with my partner Ira Blank
12 and named defendants William Wertz and Michael Maguire.

13 THE COURT: Good morning.

14 Well, if there's one thing this court cannot tolerate,
15 it's tardiness. I'm glad I'm right on time, an hour and ten
16 minutes late. But my apologies to everyone for the delay this
17 morning. It won't affect our schedule because the jury panel
18 I'm told will not be ready until about 10:30. But a couple of
19 things I wanted to put on the record.

20 I last week telephonically ruled on the various
21 motions, but I want to place them on the record.

22 The plaintiff's motion no. 1 to exclude reference to
23 various other litigation and claims by the plaintiffs was
24 granted.

25 Plaintiff's motion no. 2 relating to plaintiff's

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1 criminal history was granted in part and denied in part, the
2 court ruling that criminal history could be used for
3 impeachment to the extent permitted under the Federal Rules of
4 Evidence.

5 The plaintiff's motion no. 3 relating to exclusion of
6 employees' disciplinary history and termination offense was
7 granted as unopposed.

8 Plaintiff's motion no. 4 relating to so-called
9 sunshine time payments, the parties were essentially in
10 agreement as to how this should or should not come into
11 evidence. Nevertheless, the court declined to rule in the
12 abstract. We'll take this up on a question-by-question basis
13 if it arises.

14 Plaintiff's motion *in limine* no. 5 relating to
15 exclusion of plaintiff's acquiescence to defendant's overtime
16 practices is granted.

17 Plaintiff's motion *in limine* no. 6 relating to the
18 opt-in process and reference to it was unopposed and therefore
19 was granted on consent.

20 Plaintiff's motion *in limine* no. 7 relating to
21 references to the attorney/client relationship was unopposed
22 and therefore granted on consent.

23 Plaintiff's motion no. 8 relating to exclusion of
24 reference to attorney's fees and cost of litigation was
25 unopposed and therefore granted on consent.

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1 Plaintiff's motion *in limine* no. 9 relating to
2 exclusion of any reference to the stricken defenses was
3 unopposed and therefore granted on consent.

4 And plaintiff's motion *in limine* no. 10 relating to
5 exclusion of nonparty witnesses was unopposed and therefore it
6 was granted. And indeed this court on its own always excludes
7 nonparty witnesses. And with respect to any entity that's a
8 defendant as opposed to an individual, that entity can have one
9 witness present in court and at counsel table but not
10 otherwise. So I will leave it to counsel to make sure that
11 none of their party witnesses appear in court except when
12 called to testify.

13 With respect to the defendant's motions *in limine*,
14 defendant's first motion seeking to exclude certain improper
15 comments by attorneys or about attorneys was unopposed and is
16 granted on consent.

17 Defendant's motion *in limine* no. 2 relating to
18 reference to CCI's size and defendant's financial status was
19 granted.

20 Defendant's motion no. 3 relating to issues related to
21 subsequent employment or lack thereof from various plaintiffs
22 and other things regarding their financial status was
23 unopposed, with the exception that plaintiffs, opt-in
24 plaintiffs, may ask why they are unable to be present for the
25 entire trial even if the answer is because they are working,

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1 can't take off three weeks. Both sides agreed to both aspects
2 of that ruling.

3 Defendant's motion no. 4 seeking to exclude references
4 to the utility services history was unopposed and was therefore
5 granted.

6 Defendant's motion no. 5 seeking to exclude arguments
7 about or referencing the "Golden Rule" was unopposed and
8 therefore granted.

9 And defendant's motion no. 6 relating to the exclusion
10 of unfounded evidence regarding defendant CCI's corporate
11 response to complaints was granted.

12 Defendant's motion no. 7 regarding exclusion of
13 improper evidence regarding the motions *in limine* themselves
14 was unopposed and was granted.

15 Defendant's motion *in limine* no. 8 seeking to exclude
16 discussions of or by counsel was unopposed and was granted.

17 Defendant's motion no. 9 seeking to exclude reference
18 to settlement discussions was unopposed and was granted.

19 Defendant's motion no. 10 seeking to exclude comments
20 on motions and pleadings was granted as to motions and denied
21 as to pleadings, to the extent they are otherwise relevant and
22 admissible. We'll take that up as it comes up, if at all.

23 Defendant's motion no. 11 that related to other
24 lawsuits or charges filed against CCI was granted.

25 Defendant's motion no. 12 relating specifically to

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1 exclusion of a lawsuit filed against CCI in the District Court
2 for the Eastern District of Missouri was granted.

3 And finally, I offered to the parties, if they wished
4 to, if they would submit a joint list of undisputed facts, for
5 example, that related to the court's summary judgment ruling
6 that time records were inaccurate as a matter of law. I'm
7 prepared to read that list to the jury.

8 All right. That's all that we discussed on the
9 telephone. Anything else that anyone needs to raise with the
10 court?

11 MR. BHANDARI: Your Honor, there's one issue, a
12 discovery type issue. We have not received the contract
13 between CCI and the Department of Environmental Protection.
14 That had been sought much, much, much earlier in discovery.
15 Then we issued a trial subpoena to CCI, I believe it was last
16 week, and I spoke to Mr. Wittels about it and their position is
17 they're not going to provide that unless the court orders them
18 to do so. So that's an issue we'd like to raise with the
19 court, to get a copy of the --

20 THE COURT: Let me hear from defense counsel.

21 MR. WITTELS: Thank you, Judge.

22 The contract between New York City Department of
23 Environmental Protection and CCI was requested twice in
24 discovery and objected to twice in discovery; never produced,
25 never called up. And then a trial subpoena was in fact issued

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1 to CCI in St. Louis. The contract is certainly of a
2 confidential commercial nature between my client and one of
3 their customers, has all types of confidential information in
4 it.

5 THE COURT: Like what?

6 MR. WITTELS: Pricing structure, bid processing.

7 THE COURT: This is with the city?

8 MR. WITTELS: This is with the city of --

9 THE COURT: Contracts with the city are usually
10 public, and in any event, their provisions are usually a matter
11 of form or regulation.

12 MR. WITTELS: It very well may be.

13 THE COURT: Yes. So I don't see a reason to not
14 produce that. If that's the issue, confidentiality, that
15 objection is overruled. All right. Very good.

16 MR. WITTELS: And Judge, just to clarify, I can't
17 produce it right this second --

18 THE COURT: No.

19 MR. WITTELS: -- but sometime --

20 THE COURT: They didn't raise it with me until today,
21 so --

22 MR. WITTELS: Sometime today I'll produce it.

23 THE COURT: But get it to them by tomorrow or
24 certainly this week for sure.

25 When do you need it?

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1 MR. BHANDARI: We'd like it today or tomorrow, if
2 possible.

3 THE COURT: What's the reason you're going to use it?

4 MR. BHANDARI: Oh, we want to see what some of the
5 provisions are. We might need it for questioning for some of
6 the witnesses who we'd be calling tomorrow.

7 THE COURT: Okay. Well, you certainly waited until
8 the last minute to raise it, but I'll order that it be produced
9 no later than close of business tomorrow; preferably sooner,
10 but no later than that.

11 MR. BHANDARI: Okay. Thank you, your Honor.

12 MR. WITTELS: Thank you, Judge.

13 THE COURT: Anything else?

14 MR. BHANDARI: No, your Honor.

15 MR. WITTELS: No, your Honor.

16 THE COURT: Very good. So why don't we take a
17 ten-minute break now. We'll bring up the jury panel, and then
18 we'll start picking the jury.

19 Now I think I went over with you jury selection, but
20 let me go over it once again.

21 We'll pick a jury of nine. I'll examine them for
22 cause. Then each side will have three peremptories which will
23 be exercised in rounds. So my deputy will hand you the board.
24 You might as well show them the board right now.

25 And initially the nine jurors will be seated four in

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1 the first row, four in the second row, one in the third row, to
2 correspond to the boxes in the chart. After we've gotten them
3 selected, we'll bring the one there in Siberia to one of the
4 other rows, but this way it will make it easier for you when
5 you're looking at the chart.

6 And so my deputy will hand the board to plaintiff's
7 counsel, you'll exercise your challenge for that round. One
8 challenge per round. You'll hand the board to defense counsel;
9 they'll exercise their challenge for that round. We'll then
10 excuse those two jurors and replace them and so forth with the
11 second and third rounds.

12 If you waive in a given round, you lose that challenge
13 but you don't lose your remaining challenges, unless both sides
14 waive the round and then of course we have our jury.

15 All right. And remind me how long each side wanted
16 for opening statements?

17 MR. BHANDARI: Just 30 minutes, your Honor.

18 MR. WITTELS: Judge, you indicated on the phone 30. I
19 don't think I'll take 30, but --

20 THE COURT: Yes, that's fine.

21 All right. Very good. We'll see you in ten minutes.

22 THE DEPUTY CLERK: All rise.

23 (Recess)

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1 (Jury present)

2 THE COURT: Ladies and gentlemen, we're about to hear
3 opening statements of counsel. I want to advise you at the
4 outset that nothing that counsel says is evidence. The
5 evidence will come from the witnesses who will testify, from
6 the exhibits that will be received in evidence, and there also
7 occasionally may be something called a stipulation where both
8 sides agree on a particular fact. Those are the only sources
9 of evidence.

10 So why do we even have opening statements? Well, the
11 answer of course is that the evidence will come in one little
12 bit at a time. And so it may be a while before you get the
13 full picture. So in order to give you some context for what
14 you're about to see and hear, each lawyer gets a chance to in
15 effect predict what they think the evidence will show or will
16 fail to show, as the case may be, and that's why we have
17 opening statements. Each side has a half-hour for opening
18 statements, and we will begin with the plaintiff.

19 MR. GLUNT: Thank you, your Honor. May it please the
20 Court, good morning, ladies and gentlemen, members of the jury.
21 My name is Robert Glunt and I represent the plaintiffs in this
22 case. There are 20 plaintiffs.

23 THE COURT: I think so that our court reporter can
24 hear everything you say you need to bring that microphone back.

25 MR. BLANK: Is that better? Can you see something on

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Opening - Mr. Glunt

1 all of your screens? Thank you.

2 As I said before and for the sake of the court
3 reporter, my name is Robert Glunt and I represent the
4 plaintiffs in this action. There are 20 plaintiffs in total,
5 and you're going to be hearing a lot from them over the course
6 of this trial. I'm joined at counsel table by my colleague,
7 Rishi Bhandari, Donald Conklin, my cocounsel, Penn Dodson, as
8 well as one of those plaintiffs, Robert Schantz. You're going
9 to be hearing from him today.

10 Over the next few minutes, I'm going to give you a
11 short preview of the facts you are going to see over the course
12 of this trial. Thank you very much for being here and for the
13 service you are about to perform.

14 Now, this, in a nutshell, is a case about a company
15 that cheated its workers to boost profits and pad its bottom
16 line and it didn't pay its workers for all of the work they
17 performed. In doing so, it didn't just break its promise to
18 those workers; it also broke the law.

19 Now, there are three defendants in this case -- a
20 company called Contract Callers Incorporated, as well as its
21 president, Williams Wertz and vice president Michael Maguire.
22 In 2009 Contract Callers, or CCI, was hired by the City of New
23 York to install water meters throughout Queens. CCI was paid
24 millions of dollars by the City of New York to do this work.

25 Now, to install all of those water meters, CCI needed

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Opening - Mr. Glunt

1 to hire workers. My clients, the plaintiffs, are 20 workers,
2 20 formers employees of CCI, that were hired on an hourly
3 basis. Some of them worked on the job for only a few weeks.
4 Some of them worked for almost the entire life of the project
5 was just a little under three years. But every single one of
6 them, every one that you are going to hear from, worked hours
7 for which they were not paid.

8 Now, you're going to learn in this case, the course of
9 this trial, that each of the workers were required to come to
10 work early, sometimes more than an hour before their scheduled
11 shift began. During that time, they were required to load
12 trucks full of heavy equipment, retrieve paperwork, and attend
13 meetings, all of which benefited the company CCI, but none of
14 them were paid for that work.

15 They also unloaded their equipment after their shifts
16 ended. They weren't paid for that either. In addition, some
17 of the workers were also made to work unpaid hours through
18 lunch and on weekends in order to boost CCI's profits.

19 As you're going to learn, none of this is permitted.
20 CCI paid its workers hourly and it was required to pay them for
21 all of the hours that they worked and to pay them overtime for
22 work that they performed beyond 40 hours a week. CCI didn't do
23 that.

24 All that my clients ask is that CCI live up to the
25 letter of the law, in this case the federal Fair Labor

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Opening - Mr. Glunt

1 Standards Act and the New York labor law. CCI should have done
2 what every other law-abiding company is required to do, to
3 follow the same rules as everyone else. Plaintiffs are seeking
4 to be paid the wages that they already earned for the work that
5 they already performed.

6 At the end of this case, your job is going to be to
7 determine how many hours the plaintiffs worked for which they
8 were not paid and to determine the damages that they suffered
9 as a result of CCI breaking the rules and not paying what it
10 owed to its workers.

11 So that's the highlight version. Now let's drill down
12 into the details of this dispute starting with CCI itself.

13 Now, CCI is a company based in Augusta, Georgia. It
14 was originally a collections agency, but now offers a variety
15 of services, including servicing electric, water, gas meters
16 for municipalities. It is that last area of business that
17 gives rise to this case.

18 In 2007, CCI began doing business with the New York
19 City Department of Environmental Protection or DEP. Now, some
20 of you may know that DEP is the agency in charge of managing
21 the city's water supply. Everyone in New York gets their water
22 from the DEP. The DEP runs the entire show from the reservoir
23 all the way out to the tap.

24 After getting a contract with the DEP, CCI opened an
25 office in Ridgewood, Queens. Two years later, in 2009, CCI

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Opening - Mr. Glunt

1 started its second contract with the DEP and it's that second
2 contract that's at issue today.

3 You see, the DEP had figured out that sending people
4 to read water meters at every building in New York City was
5 very cumbersome. They found this new type of technology called
6 automatic meter reading or AMR. It allows a water reader to
7 radio into headquarters how much water is being used by the
8 building its attached to. That way, rather than send a person
9 to manually read a meter every couple weeks, every couple
10 months, the meter itself can phone home via radio to DEP to
11 tell them how much water is being used. It's an impressive
12 technology. But in order to make it work, the DEP needed
13 someone to take these new radio boxes, called meter
14 transmitting units, or MTUs, and connect them up to the old
15 water meters. In some cases, the whole water meter would need
16 to be replaced, as well, for the new technology.

17 So DEP hired a bunch of companies to do these
18 installations. CCI, the defendant in the case, was hired to do
19 the installations for certain buildings. That's where the
20 plaintiffs come into the story. Once CCI got the contract, it
21 needed to hire workers to install these MTU boxes and swap out
22 the old water meters. The plaintiffs are all workers who were
23 hired to do plumbing work on this project. You'll be hearing
24 from them over the course of this trial. A number of them are
25 in the courtroom today, so I'd like to introduce them now.

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Opening - Mr. Glunt

1 So you've already heard a list of these names during
2 jury selection. And you've already been introduced to Robert
3 Schantz, who you will be hearing from today. You may also hear
4 from Michael McGlone and Joe Frische today, depending on the
5 scheduling. These people come from a lot of different
6 backgrounds. Some of them are single, some of them are
7 married. Some of them live in the suburbs, some of them live
8 in the city. So some of them were union members, some of them
9 weren't. But all of them, despite their backgrounds, despite
10 their very different experiences, all of them were employees of
11 CCI, were not paid for the overtime that they worked.

12 Now, each of these plaintiffs was hired by a man named
13 Angelo Solimine, who CCI put in charge of the meter replacement
14 project. Mr. Solimine was the general manager of the project
15 and he ran CCI's Ridgewood office. Mr. Solimine reported
16 directly to the president of CCI, the defendant, William Wertz.
17 The plaintiffs were supervised by Mr. Solimine and his field
18 supervisor, a man named Charles Loguidice. Mr. Loguidice
19 reported to Mr. Solimine. He supervised the workers in the
20 field and monitored each plaintiff's work. You're going to
21 hear a lot about Mr. Solimine and Mr. Loguidice over the course
22 of this case.

23 Now, you're also going to hear a lot about the
24 individual defendants, Williams Wertz and Michael Maguire.
25 Mr. Wertz has been the president of CCI for over eight years,

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Opening - Mr. Glunt

1 and he's worked for the company for more than a decade. Angelo
2 Solimine, who ran the Queens office of CCI and hired all of the
3 plaintiffs, reported directly to Mr. Wertz. Over the course of
4 this trial, you're going to hear how Mr. Wertz received regular
5 reports from Mr. Solimine about the progress of the AMR project
6 and how much money it was making. And you're also going to
7 hear about how Mr. Wertz traveled repeatedly to the Queens
8 office to personally review how the job was proceeding.

9 The evidence is going to show that Mr. Wertz was the
10 man with ultimate power over the plaintiffs' jobs. He wrote
11 their job descriptions. He hired their supervisor, and he had
12 the power to hire or fire them whenever he wished. While
13 Mr. Solimine and Mr. Loguidice were in charge of the day-to-day
14 operations of CCI's New York office, Mr. Wertz, supervisor of
15 Mr. Solimine, was responsible for everything Mr. Solimine did.

16 Michael Maguire is the vice president of sales and
17 development at CCI. He personally hired Mr. Solimine to
18 oversee the New York office. He empowered Mr. Solimine to take
19 the actions that led directly to this case. And you're going
20 to hear evidence that Mr. Maguire involved himself time and
21 time again into who was hired, who was fired, and how the CCI
22 office in Ridgewood, Queens was run.

23 So those are the players. Those are the people who
24 are going to be involved in this case. Let's talk a little bit
25 about what this contract was and what it required.

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1 The contract between CCI and DEP to upgrade these
2 water meters and MTUs in Queens was part of a public works
3 project. Because it was part of a public works project, CCI
4 had to agree under the contract to pay no less than a
5 prevailing wage for skilled labor. You're going to hear a bit
6 about what exactly that means to pay a prevailing wage. But in
7 a nutshell it means that CCI promised to pay its workers
8 approximately \$45 an hour for the plumbing work they were
9 performing. Those are the rules CCI agreed to follow when it
10 bid on this contract.

11 In addition, CCI was bound by the same rules that
12 every other company has to follow -- federal and state labor
13 law. It also had to pay workers for all of the hours that it
14 worked. And it also had to pay workers overtime for hours
15 worked beyond 40 a week. We are here today because CCI either
16 would not or could not follow those rules.

17 So what did CCI do? Why are we here today? In a
18 nutshell, CCI made its workers work off the clock. First CCI
19 made its employees perform work before their shifts began. To
20 maximize the number of installations per day, Mr. Solimine told
21 the workers he wanted them knocking on doors to do
22 installations the very moment that their shift started at
23 8 a.m. That meant that the workers had to get into the CCI
24 offices well before 8 a.m. You're going to hear testimony that
25 everyone was required to get into the Ridgewood office

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Opening - Mr. Glunt

1 sometimes more than an hour before their shift was scheduled to
2 begin. The workers had to load up their trucks with the
3 equipment and water meters that they needed to do their jobs.

4 Now, water meters are heavy, they're made out of
5 brass, and hauling a lot of them to a truck takes time. It's
6 work. You can see a couple of them here we have as examples.
7 This is a five-eighths inch meter. It is one of the smallest
8 meters that they would be required to install. And they would
9 carry crates of these meters out to their trucks in the
10 mornings and from them in the afternoons at the behest of CCI.
11 And this enormous thing here -- I'm not going to try to lift
12 this -- is a 2-inch water meter. Again, you're going to hear
13 testimony that the plumbers had to haul these things sometimes
14 halfway down the block to their trucks to load them in before
15 their shift began. And, ladies and gentlemen, that is work.

16 In addition to doing the hauling part of this, they
17 also had to pick up and review printouts telling them where
18 they were going, what they were doing, what appointments they
19 had over the course of the day. And they needed to get these
20 handheld computers called CN3s that allowed them to program the
21 new radio boxes.

22 In addition to that work which they did every single
23 day, the workers also sometimes had mandatory meetings they had
24 to attend before their shift started. And they had to do all
25 of that work -- load up their trucks, get their paperwork, get

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1 their CN3s, attend the meetings -- with enough time to drive
2 and be knocking on the first door to do their installations by
3 the time their shift officially was scheduled to begin.

4 Second thing that CCI did was to pressure its
5 employees to work after the end of a scheduled shift. At the
6 end of the day after their shift ended, the workers would come
7 back to the office. You're going to hear from the plaintiffs
8 how they took the heavy old meters that they had replaced and
9 they brought them back to CCI so that CCI could sell those
10 meters for scrap. As I said, they're made of brass. Then they
11 had to fill out paperwork on the jobs they had done and return
12 their handheld computer. Then and only then, after all that
13 additional work was done, could they actually clock out and go
14 home. None of that time was compensated.

15 And you're going to hear from Mr. Solimine and his
16 assistant how they pressured the plaintiffs to arrive early and
17 stay late. You're going to hear how Mr. Solimine and his
18 assistant pressured the plaintiffs to arrive early and stay
19 late even if they were not being paid.

20 Third, you will hear how CCI found other ways to force
21 its employees to work for free. You're going to hear testimony
22 from some workers, either today or tomorrow, who worked entire
23 days off the clock. You're going to hear from other workers
24 who were pressured to skip their lunch breaks on a regular
25 basis. They would get calls on the radio at lunch time telling

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1 them to go and do more jobs, more installations, make more
2 money for CCI. And you're going to hear from plaintiffs who
3 were told to do necessary maintenance on CCI vehicles in their
4 spare time over the weekend without signing in, without
5 receiving a dime for their services.

6 Now, you may be wondering why something like lunch
7 breaks are so important. Well, the fact is, as you're going to
8 hear, CCI scheduled shifts ran from 8 o'clock to 4:30. They
9 were actually eight and a half hours long. CCI didn't have to
10 schedule them that way. They could have scheduled them as
11 eight to four or nine to five like a lot of companies do. But
12 because they scheduled them from eight to 4:30, wanted every
13 second they could get, it meant that as a consequence, if a
14 worker didn't take his full 30-minute lunch break every day, he
15 was actually working more than eight hours. And over the
16 course of a week, he would then be working overtime, overtime
17 for which he was not paid.

18 The point of all this is simple. CCI wanted to get as
19 much money from the city as possible while shaving hours off
20 the paychecks of the people who actually did the work. They
21 wanted them to keep their expenses low and their profits high
22 by not paying for all the work they were getting. With these
23 policies in place, CCI carried out the automated meter project
24 for the city, earning millions of dollars for the work the
25 workers did.

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1 You're going to hear they finished it early because of
2 all the additional work they were getting out of the
3 plaintiffs. The project lasted from the beginning 2009 to the
4 end of 2011. Some of the plaintiffs you're going to hear from
5 worked for CCI for all or almost all of that time. Others only
6 worked on the project for a couple weeks or a couple months.
7 As I said, they had different backgrounds, but none of them
8 were paid what they were required to be paid under the law.

9 Because of that, it's going to be your job to tally up
10 these numbers to determine what hours the plaintiffs worked,
11 how much they weren't paid, and what CCI owes them for the work
12 the plaintiffs did, work for which CCI was paid millions of
13 dollars.

14 Now, you may be wondering to yourself right now,
15 aren't there supposed to be records of the hours that employees
16 work? Aren't businesses supposed to keep track of that? And
17 you're right, they are. And this case you're going to see that
18 CCI kept daily sign-in sheets for its workers. And you're
19 going to see on most days, everyone signs in right at 8 o'clock
20 on the dot and out at 4:30 p.m. You're going to hear testimony
21 from the plaintiffs that they were told just a few months into
22 the job that they were to sign in at eight and out at 4:30 no
23 matter what hours they were actually working for CCI. You
24 already heard from the Court -- you will later hear from the
25 Court that these records, the records relied upon by CCI to pay

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Opening - Mr. Glunt

1 the workers properly, are not accurate. That's something
2 you're going to hear from the Court itself.

3 There are hundreds of these sign-in sheets, and you're
4 going to get a chance to look at them for yourself. And some
5 of them are truly remarkable to look at. You've got 20
6 different plaintiffs coming from totally different places --
7 some of them living close to the office in Queens, some of them
8 living in the Bronx or way out on Long Island, one person in
9 particular living as far away as Pennsylvania. And every
10 single one of them signs in for work at precisely 8 a.m.
11 That's what CCI's records say and that's how they paid people.

12 Let's take a closer look at one more of these time
13 sheets. You're going to have a chance to examine this time
14 sheet in particular from June 3, 2009 in more detail. Take a
15 look at some of these 8 o'clock sign-ins. The testimony and,
16 frankly, your own eyes are going to show that a lot of those
17 8 o'clock are actually 7:30s that somebody changed later with a
18 pen. Look at the second one from the top and the second one
19 from the bottom. After you review all these records and hear
20 all this testimony, you're going to come to your own conclusion
21 about when these people actually started work for CCI.

22 You're also going to see break sheets. These break
23 sheets were pieces of paper that CCI made each worker sign each
24 day stating they received their 30-minute meal break and
25 15-minute morning break. You're going to hear testimony that

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Opening - Mr. Glunt

1 these break sheets are completely inaccurate and people, many
2 of them, did not receive a 30-minute meal break. You're also
3 going to hear testimony that CCI told its workers that they
4 were required to sign these sheets whether they took a break or
5 not.

6 Again, there are hundreds of these sheets, and you're
7 going to have an opportunity to look at them. The things that
8 you will see are ridiculous -- people taking lunch at precisely
9 the same time every day for weeks on end, people writing down
10 breaks on days they didn't even work, people taking two
11 different breaks, as you can see on the one here on the screen,
12 at exactly the same time. Yet, these are the records that CCI
13 kept and that CCI used to pay its people.

14 Let's talk a little more about overtime. You're going
15 to hear how CCI actually paid some overtime to many of its
16 workers and that's true. There was definitely some overtime
17 paid on this project. But the evidence is going to show that
18 the overtime CCI paid is a total distraction. When you look at
19 the evidence, you're going to see that in most cases, overtime
20 was paid on Saturdays rather than during the week. And that
21 makes sense because when an employee is working an extra
22 eight-hour day on the weekend, it's hard to sweep that entire
23 thing under the rug.

24 When overtime was paid during the week, it required
25 authorization from management, which was not easy to get. And

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1 you're going to hear testimony that even when management
2 authorized workers to get paid for some overtime during the
3 week, it often wasn't for all the hours they worked. Often it
4 was only for a portion of the hours they worked. And you're
5 going to hear how workers, even those who regularly received
6 some overtime, worked even more hours off the clock.

7 Did CCI pay some overtime for hours that plaintiffs
8 wrote down? Absolutely. But we're here today because CCI's
9 workers were simply not permitted to write down the hours they
10 actually worked. Even though they worked before 8 o'clock,
11 they were not allowed to write that down. Even though they
12 worked through lunch and into the evening, they were not
13 allowed by CCI management to write those hours down. CCI told
14 the plaintiffs not to write down all the hours they worked.
15 Because of that, when they were paid overtime, they were not
16 paid the right amount of overtime. They were not paid for
17 every hour they actually worked.

18 You're also going to hear about an incentive system
19 that CCI promised its workers to try to get them to swap out
20 ever more meters in a day. CCI promised the workers that if
21 they meet their quota in the early afternoon, they could go
22 home early and get paid for the entire day.

23 The evidence is going to show that this incentive
24 system, sometimes called sunshine time, was actually a moving
25 target. Most workers on most days had no hope of getting out

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1 early. A lot of them were forced to stay late to finish the
2 quotas that CCI set. You're going to hear testimony that even
3 when a plaintiff worked hard, got lucky and managed to meet his
4 quota early in the day, a lot of times CCI moved the goal posts
5 out further. The worker would call in and Mr. Solimine would
6 tell him that he had to get more meters in order to go home,
7 even though he met his quota, even though he was supposed to go
8 home early that day, he had to stay out and get more meters for
9 CCI.

10 The whole point of the so-called incentive program was
11 to keep the plaintiffs working as hard as possible to make more
12 money for the company. As such, out of the hundreds of days
13 that many of these plaintiffs worked, most of them went home
14 early on at most a handful of occasions.

15 Now, there are a few exceptions. Some people who were
16 on a portion of the project were on such easy routes that even
17 with CCI moving the goal posts, they were still able to take
18 advantage of the incentive system on a semi-regular basis.
19 You're going to hear from them. Those plaintiffs, and it's
20 only a couple people, obviously, are not going to be seeking
21 compensation for the days they went home early. It doesn't
22 make any sense. But they're here because for a lot of the
23 project, they were coming in early, staying late, and working
24 off the clock just like everybody else.

25 So let's talk about how this all adds up. As I've

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Opening - Mr. Glunt

1 mentioned, you're going to hear from plaintiffs about how they
2 arrived well before their shift began and how they worked
3 through lunch, how they were forced to work off the clock,
4 after hours, or on weekends. For any individual person, that
5 may be an extra hour per day of work for which they weren't
6 paid. It may be two or more hours. You're going to have to
7 listen and hear the testimony.

8 Your job will be to take all those numbers, maybe it's
9 45 minutes or an hour in the morning, half-hour at lunch, hour
10 in the evening, and figure out how many hours total each
11 plaintiff wasn't paid for and what damages they suffered as a
12 result.

13 It may seem like we're not talking about a lot of
14 money, but the lesson to learn from this case is that small
15 numbers over time, it really adds up. Plaintiffs were paid
16 approximately \$45 per hour. For any individual worker on any
17 individual day, the amount of money that CCI shorted them may
18 not be that substantial. But at \$45 an hour for an hour or two
19 per day plus time and a half for overtime every day for 20
20 people over more than two years, CCI managed to save itself
21 huge amounts of unpaid wages. By shorting its workers a little
22 bit at a time, CCI was able to make a lot of money for itself.

23 Let's consider an example, one person working an extra
24 hour a day. Maybe he got in an extra half hour early in the
25 morning. He got in at 7 o'clock rather than eight. Or maybe

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1 he stayed an hour late to finish his quota because he was on a
2 very hard route. You're going to hear from people who did
3 that. Maybe he wasn't taking a lunch as well.

4 But every single day that a person doesn't get paid
5 that hour, he loses \$45 in wages. In a week, he's lost 225.
6 In a month, it's approximately 978. And over a single year
7 he's been shorted over \$11,000. And that's before you consider
8 overtime pay or any additional damages that the Court may
9 instruct you on later. One hour a day may not seem like a lot,
10 but this project went on for almost three years. As this
11 example shows, even an extra hour a day can add up to tens of
12 thousands of dollars in unpaid wages.

13 In fact, as the second part of this shows, even .1
14 hours, just six minutes a day, can add up to real money, over
15 \$3,000 over the life of the contract. That's why it is
16 critically important for you to listen carefully and determine
17 as accurately as you can how many extra hours these plaintiffs
18 worked. Because this case is not going to be just about one
19 hour or .1 hours per day. The evidence in this case is going
20 to show you that many plaintiffs worked a lot of extra hours.
21 It wasn't just one hour in the morning or one hour in the
22 evening. Sometimes it was one hour in the morning and one hour
23 in the evening and additional time. They simply weren't paid
24 for it.

25 Let's say in the same example that a CCI employee

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Opening - Mr. Glunt

1 worked two extra hours in a day. He came in an hour early and
2 skipped half his lunch and stayed 45 minutes late to meet his
3 quota and drop off material. For two hours a day, that worker
4 will be losing \$450 a week, almost \$2,000 a month. Every
5 single year he could be losing \$22,000 before you factor in
6 overtime or any other damages. At three hours, 675 a week,
7 almost three grand a month, and \$33,000 a year in unpaid wages
8 before any accounting for overtime or other damages.

9 But this example here, as large as these numbers get,
10 is still just one person. As I've said, there are 20
11 plaintiffs in this case. And as you can imagine, when all the
12 hours and all the overtime and other damages are added
13 together, the damages can become very large very fast.

14 It's going to be a lot of evidence and a lot of
15 testimony to take in. You're going to be listening to a ton of
16 people come into this room and talk about how they worked and
17 what hours they worked. But the plaintiffs are confident that
18 once you see all the facts of this case and hear from all of
19 the witnesses, you will see that they are entitled to well over
20 a million dollars in damages for the time they spent working
21 for CCI off the clock.

22 So how are you going to tabulate this? Sounds like a
23 lot of work to do. We are going to help. We're going to walk
24 through the calculations with every single person. We're going
25 to have a chart that you're going to see where we will fill in

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1 with every witness that testifies how many hours he worked in
2 the morning, how many hours he worked in the evening, whether
3 he skipped lunch or didn't skip lunch, what additional hours he
4 claims to be working. And at the end of the trial, we're
5 confident that chart will help you to determine the amount of
6 damages that the plaintiffs are owed.

7 So that's the case. There are a lot of witnesses.
8 There's going to be a lot of evidence. But the facts are very
9 simple. CCI signed a contract with New York City Department of
10 Environmental Protection to install water meters, upgraded MTUs
11 in Queens. CCI hired workers to install these meters. And to
12 boost its bottom line, CCU failed to pay those workers for all
13 the work they did under the CCI contract.

14 Simply put, CCI broke the rules and it cheated its
15 workers in the process. It chose to ignore the same rules
16 about paying workers that every other business is required to
17 live with. All of the plaintiffs ask is for what they're
18 entitled to, the money they already earned working long hard
19 hours for CCI, the money that CCI is required to pay them
20 because it could not follow the rules. Thank you very much.

21 THE COURT: Thank you very much. Now we'll hear from
22 defense counsel.

23 MR. WITTELS: Thank you, your Honor.

24 So good morning, members of the jury. First and
25 foremost, both I and my clients what to thank you for being

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Opening - Mr. Wittels

1 here. I know this is a long trial and this is an imposition
2 and disruption in your life and I appreciate you fulfilling
3 your civic duty and being here.

4 We all know there are two sides to every story and
5 this is my time to tell a brief outline of what I believe the
6 evidence will show the story really to be. I'm eager to have
7 this opportunity to be here today to represent Contract
8 Callers, sometimes you'll hear them referred to as CCI just
9 because it's a nice short way of saying it, and William Wertz
10 and Mike Maguire, who work for CCI.

11 As Judge Rakoff kind of mentioned, the purpose of an
12 opening statement is to give you an outline of where this case
13 is going. And at the risk of showing my age, I liken it to the
14 picture on the cover of a jigsaw puzzle box. You open that
15 box, you throw out a thousand pieces on a table, and you have
16 absolutely no idea how they fit into the overall picture. If
17 you have a picture to look at while you're placing the pieces,
18 things seem to fit together well.

19 So why are we here? Because the picture I'm looking
20 at is a lot different from the picture Mr. Glunt was looking
21 at. It's that simple. It really is that simple.

22 You heard the plaintiffs' attorney say that this is a
23 case all about workers being cheated out of pay for time that
24 they worked. And I will tell you that it's a case about
25 ex-employees who want to have their cake and eat it too. They

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Opening - Mr. Wittels

1 say that the plaintiffs were cheated. You heard that there was
2 maybe an overtime, maybe there wasn't, that CCI refused to pay
3 overtime, that CCI refused to allow employees to work overtime.

4 Well, the fact is that CCI had a company policy to pay
5 overtime in accordance with New York law and federal law, that
6 CCI's office in Queens allowed employees to work overtime at
7 the very beginning of the project and then things changed. At
8 some point during the project, the supervisors that you heard
9 mentioned, Mr. Solimine and Mr. Loguidice, changed the policy
10 that no more overtime would be authorized unless it was
11 precleared with supervisors because employees were working
12 many, many hours of overtime when it didn't need to be worked.

13 There are points that we have in agreement and points
14 where we diverge, and your job as the jury is to find out which
15 road you're going to travel down.

16 CCI is a company based out of Georgia. CCI provides
17 services to the public like reading meters, like changing water
18 meters, like installing automatic reading devices throughout
19 the country. For this project and for this case, CCI had an
20 office located in Ridgewood in Queens. CCI provided their
21 service to the City of New York Department of Environmental
22 Protection, as you've heard. We often refer to this company as
23 DEP and as I'm sure you must.

24 The service was in fact installing new water meters
25 like you see, and more importantly, installing the automatic

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Opening - Mr. Wittels

1 reading devices which allowed DEP to monitor water usage of its
2 customers without sending out a meter reader. The CCI folks
3 performed all these services in what DEP calls the northwest
4 quadrant of Queens. CCI won this contract at a competitive
5 bidding process with the City of New York where the City of New
6 York set the time frame of the project, the number of meters to
7 be installed, the location of the meters to be installed, and
8 the wage rate to be paid to those employees working and putting
9 in the meters and the new meter reader devices.

10 You may hear these employees referred to in various
11 ways -- field service rep, field service tech or plumbers. And
12 I will try my best during this case to refer to them only as
13 plumbers because there were other employees working for CCI in
14 Queens, as well, but this case is about the plumbers.

15 CCI had been doing business with the City of New York
16 on a meter reading project, had nothing to do with installing
17 meters, but meter reading only. And the startup team for this
18 project decided to hire the general manager of the meter
19 reading project to head up this project and, as Mr. Glunt told
20 you, that was Angelo Solimine. He was the general manager of
21 this project, sometimes referred to as AMR project, AMI
22 project, or MTU project. You may hear all three of these
23 abbreviations. They're all the same, installing new water
24 meters and water meter readers.

25 Mr. Solimine hired Charlie Loguidice to be the field

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1 supervisor. Mr. Loguidice's job was the day-to-day management
2 of the field crew or the plumbers. Mr. Solimine and
3 Mr. Loguidice hired every one of the plumbers on this job. And
4 they were responsible and in control of those plumbers
5 throughout the project. They had the power to hire, fire, set
6 their hours, set their work assignments, and nobody else at CCI
7 had that authority or exercised that authority except for
8 Mr. Solimine and Mr. Loguidice.

9 Field work began on this project in March 2009 and was
10 completed by the end of December 2011. You heard a little bit
11 about the wage rate in this case. This is a prevailing wage
12 rate matter. And for those who don't know, the City of New
13 York set the wage rate to be paid to the plumbers based upon
14 the prevailing union scale in the City of New York at the time
15 this project occurred. So the City of New York determined the
16 wage rate that the plumbers would be paid. The plumbers were
17 paid on an hourly basis. And while the rate varied with a few
18 cents here or there depending on how the prevailing wage rate
19 changed, it was around 45 to \$46 an hour.

20 CCI had never been involved in a prevailing wage rate
21 case before, and they will admit that early on in this project
22 there was some issues with pay. Prevailing wage rate has two
23 components -- what's called a base rate or hourly rate, and
24 benefits rate. And there was some issues about calculating
25 benefits rate early on in the project, and there was some

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1 issues regarding the weekend rate as well. Those were brought
2 to their attention by some of the very plumbers you're going to
3 hear from in this case and those problems were corrected and
4 that pay that had been missed was paid.

5 Now, the plumbers in this case could work in one of
6 three methods, and this is going to become important when you
7 hear testimony. They could be working by what is called a
8 canvas. And you heard the name of the device, the CN3 device.
9 It's a small electronic device that they would have. And that
10 CN3 would have up to a hundred addresses in it. And they could
11 go out to the field and go to any of the addresses on their
12 CN3, knock on the door, see if the homeowner was home, and let
13 them know they needed to change their water meter and/or their
14 automatic water reading device. That's a canvas.

15 There were also plumbers who worked by appointment.
16 So DEP sent out letters. I don't know if any of you got them,
17 but they sent out letters asking homeowners and property owners
18 to contact DEP and/or CCI and schedule an appointment for a
19 definite time for a plumber to come out and change their
20 meters. Now, definite times for those appointments that we all
21 hate, eight to 12, 12 to four, okay, so you get to wait around
22 a half day. But they could be given appointments.

23 And some of the plumbers worked a combination, maybe
24 appointments in the morning and canvas in the afternoon. And
25 the plumbers got to determine what method they wanted to work.

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Opening - Mr. Wittels

1 Some of the guys hated appointments. Some of the guys loved
2 appointments so they chose appointments or they chose straight
3 canvas.

4 Once the plumbers left the shop in Ridgewood, there
5 was very little if any supervision. They're out in the field
6 throughout Queens going to addresses, changing out water meters
7 and readers. You've heard there were two supervisors --
8 general manager Angelo Solimine and field supervisor Charlie
9 Loguidice. The plumbers were expected to go out, change the
10 meters during the day, and come back in the afternoon.

11 There were different shifts during this project.
12 Originally this project was 7:30 to 4 a.m. -- 4 p.m., excuse
13 me. That changed to eight to 4:30. At times during the
14 project, there was a split shift, eight to 4:30 for some of the
15 plumbers, ten to 6:30 for other plumbers. And at certain times
16 all plumbers were put on a four-day work week, eight to 6:30.
17 So your job during this trial is to determine what shifts were
18 being worked, when they were being worked. There were split
19 shifts, there were mixed shifts, and you will see that on the
20 sign-in sheet.

21 Regardless of what shift a plumber was to work, they
22 were expected to take a half-hour meal break during their day.
23 And, again, they're out in the field, they're not being
24 supervised. These are not factory workers where a whistle
25 blows at 12 o'clock and everybody stops and takes lunch.

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1 They're working either canvas or appointments. They know their
2 schedule. They know when they can take a break, and it's their
3 duty to take a break sometime during the day.

4 DEP required the plumbers to sign in and sign out
5 every day. DEP provided the sheet that you saw on your screen.
6 And you will see thousands of those sign-in sheets during this
7 trial because there's one for every day that the project was
8 operational. DEP designed the sheet. DEP required the
9 plumbers to sign in blue ink. And those original sheets were
10 required to be turned in by CCI to DEP on a daily basis.

11 Beginning in August of 2010, CCI instituted the lunch
12 break or meal break sign-in sheet, which you also saw during
13 plaintiff's opening statement. You'll see hundreds of those
14 sheets as well. They were required, each plumber was required
15 to turn in one of those sheets each week indicating when and
16 how they took each break. You'll also see on that sheet that
17 the plumbers attested that the information was true and
18 accurate. They knew that DEP and CCI was relying on the truth
19 of their sign-in sheet and the truth of their break sheet.

20 The Queens office opened at 5 a.m. and it opened at
21 5 a.m. so Mr. Loguidice and Mr. Solimine and the warehouse
22 manager could route the employees for the day, pull their
23 product for the day, organize their equipment for the day so
24 that when the plumbers showed up they were ready to go and hit
25 the field. The gates to CCI's Queens operation did not open

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1 until 7 o'clock in the morning. A plumber couldn't come in
2 before seven.

3 And the reason the gates opened at seven is because a
4 lot of the plumbers asked management to open the gates at
5 seven. You heard a lot of them were coming from Long Island.
6 They were coming from New Jersey. They were coming from
7 Pennsylvania. They were coming from Brooklyn. And they didn't
8 want to get caught in rush hour traffic. So they asked for the
9 gates to be opened because there was no parking in this part of
10 Ridgewood, no parking on the street. They asked that the gates
11 be open so they could come in early.

12 At no time were they told to be there at seven. And
13 at no time, once the shift changed from 7:30 to eight, they
14 weren't told to be there at 7:30. Were they allowed to come
15 in? Yeah, they were allowed to come in. And what did they do?
16 They went to the break room. They had a cup of coffee. They
17 smoked some cigarettes. They BS'd with each other. They came
18 in on their own accord early, at their convenience, not at the
19 request of their employer and not for the benefit of their
20 employer.

21 You also heard about this incentive program, and I
22 think it's going to become really important somewhere down the
23 road in this trial. Mr. Solimine as the general manager
24 created an incentive program that allowed plumbers to leave
25 work early after doing a certain number of jobs. And we may

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1 not agree on the number of jobs, and we're going to hear
2 probably testimony about whether it was eight or 12 or ten or
3 six. But every one of the plaintiffs is going to testify or
4 tell you that the incentive program existed and that they were
5 allowed to leave once they hit that quota.

6 And a lot of the plaintiffs in this case utilized that
7 program. They left work before they put in eight hours a day
8 and they were still credited with working eight hours a day.
9 Several of the plumbers you'll hear testify worked at most five
10 hours a day almost every day that they were employed. They
11 went home early a minimum of four, if not five days a week, but
12 still got credited with working eight hours.

13 You'll hear other plumbers testify they didn't get to
14 make the quota that often. Maybe they only got to go home
15 early two or three days a week. And when the plumbers left
16 early, they didn't leave at 3:39, they didn't leave at 4:01.
17 They left at 1:30 or two in the afternoon, a substantial number
18 of hours they were given credit for that they didn't work.

19 One of the things you won't see in this case, well,
20 you'll see plenty of records from CCI and you've been told that
21 those are not accurate. Yeah, they're not accurate because
22 plumbers were allowed to sign out at 4:30 if they left at two.
23 They didn't sign out at two. They signed out at 4:30 even
24 though they were already home by the time 4:30 came.

25 What you won't see is any records that any of the

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1 plumbers kept for their own use. You'll hear several of the
2 plumbers in this case tell you they kept detailed records of
3 the hours that they worked for CCI and learning that this
4 lawsuit had been filed while they were still working for CCI,
5 they destroyed those records and don't have them to show us
6 anymore.

7 You will hear -- they tell us in law school never to
8 make an absolute, but I think I'm going to make an absolute --
9 you will hear every plumber that testifies in this case tell
10 you that the records they submitted to the City of New York and
11 to their employer were inaccurate at their hand. You will hear
12 every plumber tell you they falsified their reports of hours
13 worked to the City of New York. You will hear every plumber
14 tell you that they falsified their lunch break or meal break
15 reports. Those are reports relied on by the city and by their
16 employer and they're now going to come into court and tell you
17 that throughout this project, they falsified those records.
18 They knew they were falsifying those records even though they
19 knew who was relying on those records.

20 As the judge indicated to you, this case is going to
21 go over three weeks and while we may not be working 15 days
22 straight in a row, this is a long trial and you are going to
23 hear a lot of testimony from a lot of different people. And as
24 you have already seen today, the plaintiffs always go first and
25 the defendant always goes second. So the only thing I ask you

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Opening - Mr. Wittels

1 is that you listen and weigh all the evidence all the way
2 through the trial, all the way through.

3 And at the end of this case, based on what I think
4 you're going to hear from the witness stand and the exhibits
5 you're going to see -- and there's going to be a lot of paper.
6 You see all the boxes. There's lots of paper in this case --
7 I'm going to come back up when I get the other opportunity that
8 I have to talk to you in closing statement and I'm going to ask
9 you to return the only just and logical verdict in this case
10 after you hear all the evidence, which will be a verdict in
11 favor of CCI, William Wertz, and Michael Maguire.

12 And, again, I thank you for your attention and your
13 deliberation throughout this process. Thank you very much.

14 THE COURT: Thank you very much. All right, ladies
15 and gentlemen. We're going to let you take your lunch break
16 now and we will reconvene at 1:45, a little over an hour from
17 now. So we'll see you then.

18 (Jury not present)

19 THE COURT: All right. Anything else counsel needs
20 from the Court?

21 MR. BHANDARI: No, your Honor.

22 MR. WITTELS: Nothing, Judge.

23 THE COURT: All right. We'll see you at 1:45.

24 (Luncheon recess)

25 (Continued on next page)

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Schantz - Direct

1 AFTERNOON SESSION

2 2:00 p.m.

3 (Jury present)

4 THE COURT: Please call your first witness.

5 MR. BHANDARI: Thank you, your Honor. The plaintiff
6 calls Robert Schantz.

7 ROBERT SCHANTZ,

8 called as a witness by the Plaintiff,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BHANDARI:

12 Q. Good afternoon, Mr. Schantz.

13 A. Good afternoon.

14 Q. As so the first question is: How do you know the defendant
15 Contract Callers, Inc., also known as CCI?

16 A. I work for them.

17 Q. And you're a plaintiff in this case, correct?

18 A. Correct.

19 Q. Now we're going to get to your work at CCI in a few
20 minutes, but I wanted to just ask you a few questions about
21 your background.22 THE COURT: No, just put questions, counsel. No
23 colloquy, no introduction, no nothing but questions.

24 Q. Okay. Where do you live, Mr. Schantz?

25 A. I live in Hicksville, New York.

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Schantz - Direct

1 Q. How long have you lived there?

2 A. I've been there about 19 years.

3 Q. And what type of place do you live in in Hicksville, New
4 York?

5 A. I live in a two-family home, residential home.

6 Q. And do you rent or own that home?

7 A. I own the house.

8 Q. And when you say it's a two-family house, can you please
9 describe, how is it configured?

10 A. It's got a main floor, one dwelling, and a basement with
11 another dwelling.

12 Q. And do they have separate entrances?

13 A. Separate entrances, separate accesses, yes.

14 Q. Do they have separate kitchens?

15 A. Yes.

16 Q. Do you live in one of the dwellings?

17 A. I do.

18 Q. Who lives in the other one?

19 A. My mother lives upstairs.

20 Q. And where did you grow up, Mr. Schantz?

21 A. I grew up in Levittown and Hicksville.

22 Q. And where did you go to high school?

23 A. I went to Hicksville High School, New York.

24 Q. And when did you graduate?

25 A. I graduated 1988.

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Schantz - Direct

1 Q. And after high school did you have any additional
2 education?

3 A. Yes, I went to college, Ithaca College, from 1988 to '92.

4 Q. And what did you major in at Ithaca College?

5 A. I majored in management, bachelor's in business science.

6 Q. So you received a bachelor's degree from Ithaca College in
7 1992?

8 A. Yes, I did.

9 Q. So after college what type of work -- what type of
10 occupation have you been engaged in since after you graduated
11 college?

12 A. I've been in a few different type of job environments.

13 Right after college I got into milk industry, with Local 584.
14 It was a unionized milk company. I worked there for about six
15 years.

16 And then I went into business for a little while. I
17 went into sales and retail management, which then I went into
18 plumbing when I was about 30 years old.

19 Q. And how long have you been doing plumbing work?

20 A. Going on 15 years.

21 Q. And so when you first started doing plumbing work, what
22 types of jobs were you doing?

23 A. Doing a lot of new home construction, residential, stuff
24 like that --

25 Q. And what --

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1 A. -- private homes.

2 Q. Sorry to cut you off there. What sort of stuff would you
3 do when you were doing new construction and residential
4 plumbing?

5 A. Heating and domestic piping to dwellings.

6 Q. And immediately before you started working for CCI, where
7 were you working?

8 A. I was working as a plumber.

9 Q. And were you working for a particular company?

10 A. I was working for -- actually, I was freelancing. I was
11 working a little bit for two companies. One was Kyle Richards
12 Plumbing & Heating, and the other one was RR Daniels.

13 Q. And were you a member of any unions before you started
14 working at CCI?

15 A. I was, yes.

16 Q. What union were you a part of?

17 A. I was with Local 584 Teamsters, in the utility industry,
18 and then I was -- for a few years I worked in the carpenters
19 union, Local 608. I wasn't doing carpentry; just doing
20 rigging.

21 Q. So how did you hear about the job at CCI?

22 A. I actually heard about the job through Scott Vaaler. He's
23 a friend of mine.

24 Q. What did Scott Vaaler tell you about the job at CCI?

25 A. He said that he might be able to get me a job, they were

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1 looking to expand their workforce, he knew I had plumbing
2 background.

3 Q. And when did you start working at CCI?

4 A. I believe it was 5/20/2009, May 20th.

5 Q. And so you heard about the job sometime before May of 2009,
6 is that correct?

7 A. Yes, prior to that.

8 Q. And how did you apply for the job?

9 A. I applied for the job. I just had gotten a call from the
10 secretary to come in for an interview.

11 Q. Did you go for an interview?

12 A. Yes.

13 Q. Who did you interview with?

14 A. I interviewed with Angelo Solimine and Charles Loguidice.

15 (Reporter interrupted for clarification)

16 Q. Sorry. You were saying you interviewed with Angelo
17 Solimine and Charlie Loguidice, is that right?

18 A. Yes.

19 Q. And approximately how long did the interview last?

20 A. For about an hour.

21 Q. What kinds of things did you discuss?

22 A. Plumbing, different types of plumbing applications and
23 basically the know-how of the job, my experience.

24 Q. And so can you explain, what was this job that you were
25 applying for? What specifically were you going to be doing?

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1 A. It was as an installer.

2 Q. An installer of what?

3 A. Plumbing installer, of water meters and MTUs, which was the
4 device that was put onto the outside of the house or the
5 dwelling, or building, that transmitted the signal from the
6 water meter in the basement.

7 Q. And before you took the job at CCI, had you ever worked
8 with water meters before?

9 A. I'd come across them prior to that. Not as fluent as that,
10 but every couple months we would set a meter or stuff like that
11 on a new home.

12 Q. And you were sitting here during the opening statements,
13 correct?

14 A. Correct.

15 Q. And did you see what my colleague Rob Glunt was pointing
16 to, these two types of meters?

17 A. I came across those, yeah.

18 Q. Did these look like the sorts of meters that you replaced
19 from time to time?

20 A. Yes.

21 Q. And from looking at this particular meter, how would you
22 describe it? What would this meter be called, in the
23 vernacular you would use?

24 A. That looks like a 5/8 rotary meter, ran with a magnetic
25 impeller inside.

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1 Q. You would replace these meters in houses with new meters,
2 is that correct?

3 A. Yes.

4 Q. And looking at this --

5 THE COURT: Are you offering these in evidence?

6 MR. BHANDARI: No, your Honor. These are
7 demonstratives. We're going to offer ones in evidence later
8 through a different witness. This is just for the purpose of
9 demonstrative.

10 Q. And this particular meter, what type of meter would this
11 be?

12 A. That looks like a 2-inch Neptune.

13 Q. And would you replace 2-inch meters from time to time?

14 A. Yes, we would.

15 Q. So in addition to replacing water meters, you said you were
16 installing another device called an MTU?

17 A. Yes.

18 Q. What was an MTU?

19 A. MTU is a -- was a small box. It was a -- MTU stands for
20 meter transmission units, and what it was is, in the house or
21 the building, you had the water meter, most of the time in the
22 basement, and the MTU or meter transmitting device was on the
23 outside of the house, so constantly communicated to the water
24 meter on what the reading was, and then from there it sent out
25 to -- in the neighborhoods we had installed, or the DEP

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1 installed, which was DCUs, and that acronym stands for data
2 collection units, so between the water meter, the device on the
3 side of the house, and somewhere in the neighborhood, with the
4 DCUs, there was -- there was this -- a signal of transmission,
5 radio transmission.

6 Q. So just so I understand, the MTUs would communicate with
7 DCUs, is that correct?

8 A. Yes.

9 Q. And the MTUs would go in people's houses --

10 A. Correct.

11 Q. -- or in businesses?

12 A. Yes.

13 Q. Now did you understand that that's what the job was going
14 to be when you applied for it prior to May 20, 2009?

15 A. I didn't know exactly what the job totally entailed but I
16 knew it was like a water meter job.

17 Q. And did you eventually get an offer to work for CCI?

18 A. Yes, after the interview, I believe it was two or three
19 days later, they had called me --

20 Q. And --

21 A. -- to come in.

22 Q. -- did you accept the job?

23 A. I did.

24 Q. And at the time that you accepted the job, were you doing
25 any other work?

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1 A. I was doing freelance plumbing.

2 Q. And so who were you doing the freelance plumbing for at the
3 time, around the time that you were --

4 A. RR Daniels.

5 Q. So after you accepted the job, was there any training
6 period?

7 A. I don't recall. Possibly maybe about a week of training,
8 you know, in -- behind closed doors, or, you know, in offices,
9 and then basically the training was just out in the field, you
10 know, to go with somebody who was on the project already. I
11 came in with -- within a couple months of the project starting.
12 There were guys that were already fluent with the job already.

13 Q. You started in May of 2009, and are you saying some people
14 had already started on the job before that?

15 A. Yes.

16 Q. Who were some of the people who had started on the job
17 before you started?

18 A. I think the contract started in January, or possibly March,
19 and the guys that were already there were guys like Jimmy Olson
20 and Charles Loguidice, Rocco Ceparano, Joe Frische, guys like
21 that. They were the senior men.

22 Q. And do you remember who you went out on any training trips
23 with?

24 A. I went out with Jimmy Olsen.

25 Q. And how long did you work at CCI total? You started in May

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Schantz - Direct

1 of 2009. When did you stop working?

2 A. I stopped in I believe it was the second week in December
3 of 2011.

4 Q. And how much longer did the project continue after you
5 stopped working?

6 A. The project was finalized two weeks after, after they had
7 let me go. They had three guys left on the -- in the crew,
8 like a skeleton crew, just finishing things up.

9 Q. So you were on it from May 2009 till December of 2011, is
10 that correct?

11 A. Yes.

12 Q. And the project lasted for just a couple weeks after you
13 finished?

14 A. Correct.

15 Q. I'd like to show you a document that's been previously
16 marked as Defendant's Exhibit SS. I have copies with me over
17 here for ease. Just one page.

18 MR. BHANDARI: Your Honor, what's the best way to do
19 this? Should I approach the witness and approach the bench to
20 give the court a copy?

21 THE COURT: Yes.

22 MR. BHANDARI: And your Honor, I'd like to have
23 Exhibit SS entered into evidence.

24 THE COURT: Any objection?

25 MR. WITTELS: No objection, Judge.

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1 THE COURT: It's marked as a Defendant's Exhibit, so
2 Defendant SS is received.

3 (Defendant's Exhibit SS received in evidence)

4 MR. BHANDARI: Okay. And I have nine copies for the
5 jury. Can I publish this to the jury.

6 THE COURT: Yes.

7 MR. BHANDARI: Okay.

8 BY MR. BHANDARI:

9 Q. So Mr. Schantz, what's been entered into evidence as
10 Defendant's Exhibit SS is this document that you have in front
11 of you, and it should also be on the screen in front of you.
12 Do you see it?

13 A. Yes, I do.

14 Q. And do you see your name on this list?

15 A. Yes.

16 Q. And according to document --

17 MR. BHANDARI: I'm sorry. Let's give a moment for the
18 jury to have it all in front of them as well.

19 It appears I gave a few extras. Thank you.

20 Q. So Mr. Schantz, do you see your name on this list?

21 A. I do.

22 Q. And according to this document, what were the exact dates
23 when you worked on -- worked for CCI?

24 A. 5/20 of 2009 through 12/9 of 2011.

25 Q. And if you look at this document, at least for the people

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1 who are on this list, the earliest that some people seem to
2 have started is February 24, 2009, is that correct?

3 A. Yes.

4 Q. And one of the people who started on February 24, 2009 is a
5 person, the last name on this list, a guy named Scott Vaaler.
6 Do you see that?

7 A. Yes.

8 Q. And is that your friend who introduced you to CCI?

9 A. Yes.

10 Q. And how did you know Mr. Vaaler?

11 A. Scott was one of my friends after I graduated college. I
12 had met him through like a beach town called Long Beach.

13 Q. Approximately how many years did you know Mr. Vaaler before
14 you applied for this job at CCI in 2009?

15 A. Known him about 20 years.

16 Q. Now going back to your job at CCI, when you started working
17 at the job, can you just describe for us what you would do in a
18 typical day, starting in the morning and through the day.

19 A. Yes. Typical day was showing up in the morning, got there
20 at 7:00, sometimes quarter to 7. Gate opened up at about 7:00.
21 Until then there was always paperwork. I was always -- had
22 stuff to write. There was a lot of reports and --

23 Q. Okay. So the morning, you said you got -- the gates opened
24 at around 7:00, is that right?

25 A. Yes.

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Schantz - Direct

1 Q. Where was the location of the CCI office, where the gate
2 would open at around 7:00?

3 A. A cross street of a commercial area, Summerfield Street.

4 Q. In what part of New York City?

5 A. Ridgewood, Queens.

6 Q. And Ridgewood is on the border between Queens and Brooklyn,
7 is that right?

8 A. Yes.

9 Q. So you would go to the CCI offices in Ridgewood, Queens,
10 every day that you were working for CCI, correct?

11 A. Correct.

12 Q. And what time would you usually -- sorry. Withdraw that
13 question.

14 Was there a parking lot at the CCI offices?

15 A. No parking lot.

16 Q. Where would you park when you would go to the CCI offices?

17 A. You'd try to get a spot on the street. Most of the time
18 you were doubly parked.

19 Q. So when people have been talking about the gates opening at
20 the CCI offices, what does that mean?

21 A. It was a metal gate that opened up to the shop. It was
22 like a -- kind of like a big door that opened all the way up to
23 the top of the building.

24 Q. And so how would you get to that door? Would you walk from
25 the street to the curb and then there would be that door or --

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1 A. Yes.

2 Q. And so what time would you get to the street where the CCI
3 offices were, on a typical day?

4 A. Probably about a quarter to 7.

5 Q. And what time would the gates open?

6 A. 7:00.

7 Q. Now when the gates would open, what would you do?

8 A. I'd lock up my truck on the street and I'd go into the
9 warehouse, and first thing I would do is I would see if the
10 handhelds were ready for my use, they were downloaded. They
11 weren't always ready, but most of the time they were ready.

12 Q. So let's talk about the handhelds. What was the name of
13 that handheld device?

14 A. The handheld was a CN3. That was the name of it.

15 Q. And --

16 A. Like a little handheld Pilot.

17 Q. Sorry. I didn't mean to cut you off.

18 A. That's okay.

19 Q. I was just going to ask you to describe it a little more.

20 A. It was like a computer device, like a handheld, like a Palm
21 Pilot, almost, like a mini computer.

22 Q. And why did you need to get your CN3 at the beginning of
23 each day?

24 A. That's what has the work in it. Your routes were in the
25 CN3. They downloaded a hundred accounts into that CN3.

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1 Without that information, you could not do your job. You
2 couldn't -- you couldn't computerize it or write it up.

3 Q. And so when you say a hundred accounts were in the CN3,
4 does that mean addresses?

5 A. Hundred addresses, correct.

6 Q. So you'd get a CN3 and it would tell you a hundred
7 addresses that you could go to in a particular day to change
8 meters and/or install MTUs, is that right?

9 A. Yes.

10 Q. So after you picked up your handheld device, what would you
11 do next in the CCI offices?

12 A. The first thing we'd do when we pick up our handhelds is we
13 want to make sure the date and time is accurate on the device.
14 If the date and time wasn't accurate, there could be problems
15 with the future program. That was kind of my protocol is once
16 I got my CN3, I grabbed my paperwork with the route or the grid
17 sheet where you were on, make sure that the CN3 was working.

18 Q. So the second thing you said is you grabbed a route with a
19 grid sheet, is that right?

20 A. Correct, yes.

21 Q. Was that called a route sheet?

22 A. It was called a -- yeah, a grid or a route -- or route
23 sheet. It's called many things.

24 Q. Okay. What was on that particular document?

25 A. That was all the pertinent information to every household.

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Schantz - Direct

1 It gave the type of meter was in there already, the homeowner's
2 name, phone number, stuff like that. Block and lot. A lot of
3 information that was not really useless -- useful.

4 Q. And what were the different types of meters that could be
5 in a particular house, or a particular business?

6 A. The smallest they came were usually 5/8 or half inch and
7 they went up to a $\frac{3}{4}$, which is as big as the one Rishi had
8 showed you guys, and then they went to the 1-inch. With the
9 housing, it got a little bigger and bigger, and the 2-inch, a
10 lot of the 2-inches looked like that, big brass --

11 Q. You'd pick up your CN3, you'd pick up your route sheet, and
12 then what would you do? After you had your route sheet in your
13 hand, what would be the next thing you would do in the morning
14 when you were working at CCI?

15 A. The first thing I would do is go back to the CN3 to make
16 sure that that route was the right route in the CN3. Sometimes
17 it was, you know -- it was, you know, confusion. I made sure
18 it was the right route. And then I'd go back and I'd get my
19 paperwork, I'd try to make a photocopy of my route sheet,
20 because sometimes it would disappear, so I had a protocol of
21 always photocopying my route sheet.

22 Q. Okay. So you'd photocopy the route sheet and compare it to
23 CN3 data.

24 A. Yeah, and see if there were appointments or a canvass.
25 Beginning of the project, most of it was a lot of canvassing,

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Schantz - Direct

1 just letting people know that there was an upgrade going on and
2 it was going to be mandatory by the city, stuff like that.

3 Q. So when you looked at your route sheet, it would say the
4 type of meters that the house had, right?

5 A. Yes.

6 Q. And what would you do next if you saw -- when you saw the
7 different meters that you were going to need for the day?

8 A. I'd make sure -- I'd want to make sure that I had the right
9 meters on there. Sometimes it was a -- it was a big area or it
10 was just 1-inch meters, sometimes it was just 5/8, ¾. I'd make
11 sure that my truck was -- was prepped with the right materials.
12 If you had to go out in the field and come back to the shop,
13 you know, that would -- you weren't doing it. That was a
14 no-no.

15 Q. So how would you make sure your truck is prepped with the
16 right materials that you're going to need for the day?

17 A. Well, basically see what the sizes, if there were a lot of
18 replacements, how many MTUs I had left on hand, if I had, you
19 know, the right gaskets, seal wire, wire.

20 Q. You'd check to see what you got, and if you needed more
21 stuff, what would you do?

22 A. I would usually load up in the morning. It was kind of
23 tradition in the morning. And at night I did some type of
24 loading. There was always something going in or out of the
25 truck, morning and afternoon.

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Schantz - Direct

1 Q. Okay. So let's focus on the morning for now. What kinds
2 of stuff would you be loading and unloading from the truck in
3 the morning?

4 A. Water meters. Sometimes from the day before, we would
5 offload the old meters that were still on the truck. A lot of
6 times it was a lot of big wire ones. You wanted to make sure
7 you had enough wire to run around the buildings.

8 Q. And so on a typical morning, you would get to CCI, the
9 street where CCI was around 6:45 in the morning and then you
10 would go inside the CCI offices at around 7. How many trips
11 back and forth between the office and your truck would you make
12 between 7 and 8 a.m., on a typical day?

13 A. Anywhere from four to eight trips, depending on, you
14 know -- there was a lot of back and forth.

15 Q. And why would you make four to eight trips between your
16 truck and the CCI office in the morning? What would you be
17 doing on those four to eight trips?

18 A. Just loading it with proper materials.

19 Q. Now in the mornings when you got there, did you ever see
20 anybody else who worked at CCI?

21 A. Yes.

22 Q. If you look at Exhibit SS, which I handed you a few moments
23 ago and it's also on the screen, can you identify the names of
24 people who you would see in the morning between 7 and 8 a.m.,
25 at the CCI offices.

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Schantz - Direct

1 A. Yes.

2 Q. Okay. Can you please do that.

3 A. Domenic would always be there at 7.

4 Q. Sorry. If we can just go through from the top.

5 A. Sure.

6 Q. You're saying Domenic Fanelli?

7 A. Yes, Domenic Fanelli, he was there at 7:00. Joe Frangiosa
8 was there probably by 7, 7:30. Bobby Gandolfo, he was always
9 there. He was coming from Pennsylvania. He was always there.
10 He was an early bird. Jesse Kay was there. Mike McGlone.

11 Rafael Soto, I used to see him in the morning.

12 Q. And when you'd see some of these other folks in the
13 morning, the people you were talking about are people who were
14 usually there around 7:00?

15 A. Yes.

16 Q. Would you see other people around 7:30?

17 A. Yes.

18 Q. Who were the people you would see?

19 A. Pretty much the rest -- most of the rest of the crew was
20 there by 7:30.

21 Q. So pretty much everybody on this list, Exhibit SS, would be
22 at the CCI offices before 7:30 on a typical workday, is that
23 correct?

24 A. Yes.

25 Q. So after loading stuff up into your truck, what would you

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Schantz - Direct

1 do next? Excuse me. Would there be anything else that happens
2 in the morning at the CCI offices?

3 A. I try to, you know -- paperwork, I'd finish up some of the
4 paperwork if it wasn't done.

5 Q. Okay. Paperwork, right?

6 A. Paperwork.

7 Q. When you say paperwork, are there particular forms you were
8 filling out?

9 A. Two of them in particular were called AMR reports. They
10 were automatic meter reports. It was just something --
11 something that was not in the ordinary that had to be
12 documented down so the city, the DEP, knew of the problem or
13 the issue.

14 And another one was seal cards, which after -- every
15 time we replaced a meter, we affixed a seal, copper seal, and
16 it's designated with a number. It's kind of a deterrent from
17 people to cut it and to work on their meter themselves. Once
18 you knew the seal was gone, you knew there was some type of
19 tampering. So we had to monitor exactly what seals we filled
20 out, which day we, you know, we affixed them to, what type of
21 job it was, the block, the lot, you know, tedious stuff.

22 So if I had a little extra time, I would -- I would
23 continue with my paperwork.

24 Q. And were there ever meetings in the morning?

25 A. There were meetings.

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Schantz - Direct

1 Q. Who would call the meetings?

2 A. Either Charlie or Angelo.

3 Q. What was the purpose of these meetings? What would happen
4 at these meetings?

5 A. We'd just try to sometimes usually address -- if there was
6 a problem going on or there was some type of new protocol that
7 we needed to do or if there was any issues.

8 Q. And approximately how -- and when would these meetings
9 happen? When would the meetings occur?

10 A. They were various, but I would say on average, once or
11 twice a month.

12 Q. And at what time would the meeting happen?

13 A. The meeting was always scheduled for 7:30.

14 Q. So were people required to be at the morning meetings?

15 A. Yes.

16 Q. Were you required to be at the morning meetings?

17 A. Yes, it was mandatory.

18 Q. And did you attend the morning meetings?

19 A. I did.

20 Q. And so on the dates when there were morning meetings, would
21 you get there even before 7:30?

22 A. Yes.

23 Q. Why would you get there before 7:30 if there was a morning
24 meeting scheduled at 7:30?

25 A. The reason I'd get there is just that's when I was there,

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1 at 7, you know, so I -- I always had stuff to do. Even if
2 there was a meeting, it wasn't gonna stop my -- my basic
3 agenda.

4 Q. And why were you doing that work between 7 and 8:00, as
5 opposed to doing it after 8 a.m.?

6 A. Well, we're supposed to be on our job, our first job by
7 8:00, in the field, you know.

8 Q. So let's just discuss that for a moment. When you say
9 you're supposed to be on your first job by 8 a.m., what does
10 that mean?

11 A. You had to be in the -- in the -- your territory. If you
12 were knocking on doors, you were cold calling, you'd have to be
13 on the street knocking, or if you had an appointment, you have
14 to, you know, show up to your appointment by 8:00, you started
15 off.

16 Q. And so in order to be at your appointments by 8 a.m. or to
17 start knocking by 8 a.m., what did you have to do to be ready
18 to do that?

19 A. I would generally -- I would try to get out of the shop by
20 7:30, to get to the field, 'cause it was -- depending on where
21 we were working, depending on traffic, you know, in the city,
22 in Queens, it could have been 15-minute commute to 45-minute
23 commute if we're working in Long Island City or, you know --

24 Q. And so the CCI office is in Ridgewood Queens. Where was
25 the location where you were changing meters for the

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Schantz - Direct

1 approximately two years that you were on this job, two and a
2 half years?

3 A. There were multiple zip codes. Some of them were closer
4 than others. It was kind of sporadic, but it was Forest Hills;
5 Woodside; there were six zip codes in Astoria; Woodhaven; Kew
6 Gardens. Kind of sporadic. And a lot of them you jumped on
7 the parkway or whatnot and at that time it's not short.

8 Q. They were all in Queens?

9 A. They were all in Queens.

10 Q. And you just said that you would typically try and leave
11 the office by about 7:30?

12 A. Yes.

13 Q. How would you get from one appointment to the next?

14 A. Drive.

15 Q. And was it your own car?

16 A. It was a company -- company car.

17 Q. And when did you get issued a company car?

18 A. I would say probably about within six months after I
19 started.

20 Q. And so at the beginning how were you getting around?

21 A. At the beginning we were working with teams. We were
22 working with two guys each on each truck, which later went to
23 one person on each truck.

24 Q. So at the beginning when you were working on changing
25 meters, you were on a two-person team, is that right?

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1 A. Yes.

2 Q. Do you remember who was your partner on the two-person
3 team?

4 A. My partner, my training partner's name was Jimmy Olsen.

5 Q. Then how long were you partnered with Jimmy Olsen when you
6 were working on this job?

7 A. I would say anywhere between four to six months, three to
8 five months.

9 Q. And then after Jimmy Olsen and you stopped being partners,
10 who were you partners with after that?

11 A. I believe right after that I was partners with Domenic
12 Fanelli.

13 Q. And did you have any other partners after Domenic?

14 A. Yes, I was partners with Mike McGlone.

15 Q. And anybody else?

16 A. Kevin Scipio. We had -- they changed things around often
17 so I had quite a few. Rafael Soto I helped out a little bit.

18 Q. So when you'd go out into the field, describe your day once
19 you're out in the field. You would either do appointments or
20 you'd do canvassing, is that right?

21 A. Yes. Sometimes you'd get a little of both.

22 Q. And if you had appointments, approximately how many
23 appointments a day would you have?

24 A. It ranged, but between I'd say eight to ten, if you were
25 fully scheduled. Towards the end maybe twelve appointments.

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Schantz - Direct

1 Q. What does it mean to canvass? What would that mean to you?

2 A. Canvass is like cold calling, you know, like if you're
3 selling something, you're knocking on doors, you know, just
4 getting on the grid where the upgrade's getting done and just
5 letting people know that the -- there's an upgrade that's going
6 to be happening.

7 Q. So you'd knock on a door. Let's say somebody answers.

8 What would you say?

9 A. Typically I would say, "Hi. My name is Rob Schantz. I
10 work for Contract Callers. We're a subcontractor for the DEP.
11 We're doing the AMR project, which is an upgrade on the service
12 in the water meters. They're changing the way they read their
13 systems, the way they're billing it." That was typical.

14 Q. Would you ask if you could change their meters at that
15 time?

16 A. Yes.

17 Q. And what was like usually -- do you know what your success
18 rate was when you were just cold calling on someone to see if
19 they would let you change the meter?

20 A. It all depends. Some days you knocked all day and some
21 days you got them -- you got them quick, you know.

22 Q. Did Contract Callers tell you how many meters you were
23 supposed to be changing on a given day or how many MTUs you
24 were supposed to be installing?

25 A. Yeah, from time to time the numbers were different, but --

F5i1mcg3

Schantz - Direct

1 Q. What were the numbers that you remember being told?

2 A. I remember eight meters, equivalency of eight meters, and I
3 guess equivalency of the eight meters is the meter -- we got
4 more to change the meter out than just the MTU, so it was
5 equivalent I think three MTUs to one meter, so it was -- I
6 believe eight meters or close to twenty MTUs was kind of like
7 the same corresponding monetary number. So it was quite a
8 range.

9 Q. And why did you care what number CCI wanted in terms of
10 like the number of changes, the number of jobs you would do
11 each day? Why did it matter to you?

12 A. Well, you wanted to produce, you know, you wanted to -- to
13 keep your job. You know, just like if you were in a sales
14 team, you know, you want to be one of the top sellers.

15 Q. Why? Why would it matter?

16 A. Why would it matter?

17 Q. Yeah.

18 A. 'Cause if I didn't do my job, I wasn't gonna keep it.

19 Q. Did anyone ever tell you that?

20 A. Nobody ever told me that directly, but through my two and a
21 half years or whatnot, there was -- there was guys that were
22 being laid off, or fired, and furloughed and brought back and,
23 you know, there was a lot of guys that would, you know, get cut
24 off and then get back hired on and then they were hiring other
25 subcontractors, hiring them, so there was a lot of -- there was

F5i1mcg3

Schantz - Direct

1 a lot of turnover.

2 Q. Did you ever get furloughed?

3 A. I never got furloughed.

4 Q. What does it mean to get furloughed?

5 A. Well, furloughed is -- it would be like a layoff. Guys
6 didn't know they were definitely coming back. Furlough I
7 believe is something where you know you're coming back. So
8 when guys, you know, got laid off, they weren't sure if they
9 were coming back. Not everybody did.

10 Q. And so who were the people who would tell you what the
11 numbers were that CCI wanted?

12 A. Charlie and Angelo.

13 Q. And what would they say about the numbers?

14 A. Got to get your numbers. No excuse. No excuses. You got
15 to get your numbers. Numbers, numbers. It was numbers.

16 Q. And so what would have happened if you started your job --
17 in your opinion what would have happened if you'd started your
18 job at 8 a.m. as opposed to coming in at 7 a.m.?

19 A. There wouldn't be enough time to complete everything.

20 Q. When you say that, what --

21 A. If I got there at 8:00 and started loading and getting all
22 my paperwork, there was a fair amount of time, then by the time
23 I got out to the field, could be 9, 9:30, and that was -- that
24 was not tolerable.

25 Q. And during the day would you ever speak to Charlie or

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Schantz - Direct

1 Angelo --

2 A. We would, yes.

3 Q. -- when you were out in the field?

4 A. Yeah, they would check in with us on an ongoing thing. You
5 know, there was sometimes they were adamant about the numbers
6 and you would hear them more often. You know, they were --
7 usually in the morning and afternoon they would call you, what
8 are your numbers? What are your numbers? If some guys'
9 numbers weren't that good, it was like, maybe you should go
10 home, we're getting killed out there, you know. And guys went
11 home 'cause they didn't have great numbers sometimes.

12 Q. And did you ever get sent home because you didn't have
13 great numbers?

14 A. I got sent home a few times when things weren't working out
15 there, when they were just like, why don't you just throw the
16 towel in. You know, I wanted to stay, but I felt like I wasn't
17 producing, that I was losing the company money.

18 Q. Why were you losing the company money if you weren't
19 producing?

20 A. If they weren't getting paid.

21 Q. And when you went home early, would you get paid?

22 A. When I went home early? No.

23 Q. So there were days when you went home before the end of
24 your shift and then you wouldn't get paid for those days,
25 correct?

F5i1mcg3

Schantz - Direct

1 A. Correct.

2 Q. Now when was your shift supposed to end on a normal day? I
3 know there's a few different ones, but on a typical day, when
4 would your shift run?

5 A. 8 to 4:30 was typical.

6 Q. That's when you were supposed to be working, correct?

7 A. Correct.

8 Q. And were there any other shifts that you would work from
9 time to time?

10 A. There was a couple split shifts. Some guys came in at 10
11 to 6:30. There was a couple times during the contract where it
12 was four days a week, four ten-hour days, so --

13 Q. And on the four ten-hour days, what time was your shift
14 supposed to be?

15 A. On the four ten hours? I believe it was 8 to 6:30.

16 Q. So those are the three different types of shifts you would
17 work, right, from 8 to 4:30, 10 to 6:30, or 8 to 6:30, correct?

18 A. Correct.

19 Q. And no matter what shift you were working, how many hours a
20 week were you supposed to be working?

21 A. 40 hours.

22 Q. Now on days when your shift was from 8 to 4:30, did you
23 ever come back to the office after 4:30?

24 A. Yeah.

25 Q. Why would you come back to the office after 4:30?

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Schantz - Direct

1 A. You'd just get stuck out in the field sometimes. You'd do
2 your last job and something went wrong, something went sour,
3 and, you know, if everything went good, you could get your job
4 done in 15 minutes to a half hour, but if things went sour and
5 you had a broken wire or you needed to drill a hole, you could
6 be there, you know, you could get stumped on a job, so a lot of
7 times it was you just got held up, or going back, it was tons
8 of traffic.

9 Q. And when you got back to the office, whenever you got back,
10 4:30 or after 4:30 or before 4:30, what would you do when you'd
11 go back to the office? What was your routine for closing out
12 your day?

13 A. Find a spot, which was troublesome.

14 Q. To find a parking spot?

15 A. Yeah.

16 Q. Okay.

17 A. I'd try to grab my handhelds. Those are the first two
18 things. You don't want to go home with the computer devices.
19 I'd grab my handhelds and I'd go into the office, put them --
20 give them back to one of the guys that were doing the docking
21 and the downloading so they could put them in the download.

22 Q. And after you hand in your device, what else would you do
23 in the afternoon after your shift was over?

24 A. Then I would kind of finalize all my paperwork. I tried to
25 make copies of my paperwork. We would go back -- from there, I

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Schantz - Direct

would go back to the truck and we would take the water meters out. Depending on how many you had -- it was always between, you know, between four and ten meters, and we needed to write a meter sheet for that. We'd have to write the serial number on the water meter, what type meter, what type make it was, so that was what kind of followed afterwards to get the meters out of the truck.

Q. So when you would switch meters, you'd put a new meter into an office or business, is that right?

A. Yes.

Q. And then you would take the old meter with you?

A. Yes, I would.

Q. And so at the end of the day approximately how many trips would you make back and forth between your truck and the office unloading meters?

A. At the end of the day?

Q. Yes.

A. I'd say about three to five trips back and forth.

Q. Why would it take so many trips?

A. Well, I mean, you got -- you got all these water meters, and it's not like you're carrying all of them at one time, you know, you kind of want to work safely. It was heavy. So you'd have -- take your one, two meters at a time, stack them up, go drop them in the box, make sure you have the right numbers, and go back. It was a back-and-forth thing. If you had to write

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Schantz - Direct

any reports, or register head's defective -- that's the top of the piece on the water meter -- you'd have to -- that would have to be done by the end of the day too. So you'd be going back and getting register heads that you changed, which is the normal occurrence to write the report with that.

Q. So you would unload those water meters at the end of the day, you would do paperwork, filling out these reports that you just discussed, and you would load up your CN3. Would you do anything else at the end of the day?

A. We would load up too sometimes at the end of the day.

Depending on when the warehouse supervisor called you in, called to see what you needed, most of the time when you got back, the material was -- was ready for you, all stacked up in boxes, and it had, you know, your name on it or your route. So at times when I came back, depending on how much time there was, I would continue loading. Loading, you know, was morning and at night. It would be nice if they could all be done at one time, but, you know, it didn't work that way.

Q. Give me an idea, what is the sort of stuff you would store in your truck other than water meters and MTUs?

A. Other than water meters and MTUs? I'd store a lot of -- I had my truck stocked with plumbing equipment and tools and drills and handguns and pistols, materials for the job. Wire and -- after the job was done with the water meter, there was a seal wire, different from like, you know, 3 wire, like bell

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Schantz - Direct

1 wire. Not to get you confused. So there was two types of
2 wires that you were loading up. Seal wire. And then you would
3 get your seal caps. You were replenishing your register heads.

4 Q. Sorry, Mr. Schantz. I think you said handgun. That was
5 one of the things in your truck, is that right?

6 A. No, like -- like pistol -- like pistol drills.

7 Q. Ah, okay. Pistol drills. Got it.

8 A. Sorry. Is that how it came out, handgun? Sorry.

9 Q. So you load up -- you would load up your truck with general
10 material at the end of the day, is that correct?

11 A. Yes.

12 Q. And so approximately the end of each day, how long would it
13 take you to finish up your routine before you could actually
14 leave the CCI office and be done with work for the day?

15 A. From the time I'm pulling up to get -- it was anywhere
16 between 20 minutes to a 30-minute time frame.

17 Q. Now this would be your routine on the days where it would
18 be from 8 to 4:30, right?

19 A. Yes.

20 Q. Would it be the same routine if it was an 8 to 6:30 day?
21 Would you have to do the same stuff at the end of the day?

22 A. Same routine, yes.

23 Q. If it was a 10 to 6:30 day, would it be the same routine?

24 A. Yes.

25 Q. Now on a 10 to 6:30 day, obviously you weren't getting to

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Schantz - Direct

1 the office at 7 a.m., were you?

2 A. No.

3 Q. What time would you get to the office if your shift was
4 supposed to start at 10 a.m.?

5 A. I got there for about 9 -- 9, 9:15.

6 Q. And would you do the same routine in the morning before
7 your 10:00 shift?

8 A. Yes.

9 Q. So a few moments ago we talked about -- you said that
10 sometimes you would come back to the office after 4:30 p.m.,
11 correct?

12 A. Correct.

13 Q. And if you had a 6:30 shift, or if you had a shift that was
14 supposed to end at 6:30, would you sometimes come back to the
15 office after 6:30?

16 A. Yes.

17 Q. And sometimes when you came back to the office after 4:30
18 or after 6:30, you were paid overtime, correct?

19 A. Correct.

20 Q. Why would you get paid overtime sometimes?

21 A. It had to be okayed.

22 Q. It had to be what?

23 A. Okayed.

24 Q. And how would your overtime be okayed?

25 A. Usually if you would get stuck out there in the field, you

F5i1mcg3

Schantz - Direct

1 would have to contact Charlie or Angelo and explain to them
2 what was going on.

3 Q. And would they approve your overtime every time you asked
4 for it?

5 A. No.

6 Q. Can you remember any instances where you asked to be able
7 to be given some overtime but they said no?

8 A. Yes.

9 Q. So on a regular day, if you got back to the office at 4:30,
10 what time would you end up leaving the office and being done
11 with work for the day?

12 A. If I got back at 4:30?

13 Q. Yes.

14 A. Probably about 5:00.

15 Q. And on the days where you would leave the office at 5:00,
16 would you get overtime for those days?

17 A. No.

18 Q. Why not?

19 A. We just always signed out for 4:30.

20 Q. I'd like to show you now some time sheets that have
21 obviously been discussed a lot in this case.

22 MR. BHANDARI: Your Honor, we have a binder,
23 Plaintiff's Exhibit Binder Volume II, which has certain
24 exhibits that I'm going to be referencing right now. Can I
25 make sure that you have a copy in front of you and a copy is in

F5i1mcg3

Schantz - Direct

1 front of the witness.

2 THE COURT: All right.

3 Q. All right. So Mr. Schantz, I'd like for you to open up
4 Volume II of the binder that's directly in front of you to
5 Exhibit 71. Can you do that.

6 MR. BHANDARI: Your Honor, I'd like to have Exhibit 71
7 entered into evidence.

8 MR. WITTELS: We have no objection to that, Judge.

9 THE COURT: 71 is received.

10 (Plaintiff's Exhibit 71 received in evidence)

11 MR. BHANDARI: Okay. Rob, can we please pull that up
12 on the screen so the jury can see it.

13 Okay. If you can actually go to the very first page
14 of Exhibit 71, Rob.

15 (Continued on next page)

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F5ILMCG4

Schantz - Direct

1 MR. BHANDARI: Your Honor, if you'd like to follow
2 along on the screen as well, that's what we're showing the
3 jury. You can do it with the binder or the screen.

4 THE COURT: Those would seem to be the logical
5 possibilities.

6 MR. BHANDARI: All right.

7 Q. So Mr. Schantz, do you recognize this document?

8 A. The sign-in sheet?

9 Q. This is a sign-in sheet, correct?

10 A. Yes.

11 Q. And does it look like a sign-in sheet -- is the format of
12 this sign-in sheet the format of a sign-in sheet you signed
13 from time to time?

14 A. Yes, it is.

15 Q. Now, your last name is Schantz, so you're obviously not
16 going to be on this first page that ends in Gandolfo. So if we
17 can go to the next page, which is June 1, you see -- if you
18 were on this sign-in sheet for June 1, 2009, you would have
19 been between Ariel Peniche and Kevin Scipio, correct?

20 A. Correct.

21 Q. But you're not on the June 1, 2009 sign-in sheet, correct?

22 A. No.

23 Q. Going back to the previous page, do you see on this sign-in
24 sheet that there appear to be some cross-outs and some changes?

25 A. Yes.

F5ILMCG4

Schantz - Direct

1 Q. And can you read any of the cross-outs or changes that you
2 see on this sign-in sheet, if you look at the time in or time
3 out, if you see a cross-out, if you can identify who it is and
4 what the time out variation is?

5 Let's look at Michael Ceraldi, for example. Does it
6 look like there's any variation to the time out?

7 A. Yes, it looks like it was written over. He was in at 7:30.

8 Q. And it got crossed out?

9 A. It looks like he was out at seven or 7:30, but it got
10 changed to 6:30.

11 Q. And looking at Domenic Fanelli, does it appear like there's
12 any variation to the time in?

13 A. Yes.

14 Q. What does the variation appear to be to the time in?

15 A. Same thing. It looked like he was signed in at seven
16 something and then it was crossed out, written over, changed to
17 8 o'clock. Same thing for the time out.

18 Q. Now, these are obviously -- you didn't write those, did
19 you?

20 A. No.

21 Q. So now I'd like to go to June 3, 2009.

22 THE COURT: Before you do that, let me ask you on
23 June 2, Mr. Schantz.

24 THE WITNESS: Yes.

25 THE COURT: There's a notation on the second page with

F5ILMCG4

Schantz - Direct

1 your name, right?

2 THE WITNESS: Yes.

3 THE COURT: But it's all crossed out?

4 THE WITNESS: It's crossed out.

5 THE COURT: Do you know what occurred there?

6 THE WITNESS: I don't recall.

7 THE COURT: Is that your signature that was crossed
8 out?

9 THE WITNESS: It is my signature, yes.

10 THE COURT: Okay. Go ahead, counsel.

11 Q. So going to June 3, Mr. Schantz. June 2 when we saw your
12 name was crossed out entirely, and you don't remember why it
13 was crossed out, correct?

14 A. No.

15 Q. So we're not going to focus on June 2. But June 3, if you
16 can go to the second page, do you see your name on the second
17 page?

18 A. Yes.

19 Q. And did you sign your name at the signature block on the
20 second page of June 3?

21 A. I did. That's my signature.

22 Q. And is that your social, the last four digits of your
23 social security number?

24 A. Yes, it is.

25 Q. Does that appear to be your handwriting?

F5ILMCG4

Schantz - Direct

1 A. Yes, it is.

2 Q. Does the signature appear to be your signature?

3 A. Yes.

4 Q. So to the best of your recollection, is this the first day
5 that you signed in and received pay from CCI?

6 A. To the best of my recollection.

7 Q. You did not receive pay on June 2, 2009, correct?

8 A. No.

9 THE COURT: Did you work on June 2?

10 THE WITNESS: I don't exactly recall. They might have
11 called me in and maybe they trained me. I don't know why it's
12 crossed out there.

13 THE COURT: All right.

14 Q. You haven't seen any payroll records -- you haven't seen
15 anything indicating that you were paid for your training,
16 correct?

17 A. Correct.

18 Q. But you may have been paid for your training, you just
19 don't remember, correct?

20 A. Correct.

21 Q. So we're focusing on the time when you were working on the
22 job, not the training stuff.

23 So in this particular one, which is the first day that
24 you signed it and got paid by CCI, do you see whether or not it
25 appears that the -- what does it appear that the time in time

F5ILMCG4

Schantz - Direct

1 actually says?

2 MR. BHANDARI: Can we focus in on that a little bit,
3 Rob.

4 A. The time in looks like I signed in 7:30.

5 Q. But was -- does it look like it was changed?

6 A. It was changed. It was changed with an eight, eight over
7 it. You can see the zero over the three.

8 Q. Now, on June 3, 2009, or maybe sometime before, were you
9 told what time you were supposed to sign in every single day?

10 A. Yes.

11 Q. What time were you told you were supposed to sign in every
12 single day?

13 A. 8 o'clock.

14 Q. And what if you got to work before 8 o'clock, what time
15 were you supposed to sign in?

16 A. 8 o'clock.

17 Q. And what if you started doing work before 8 o'clock like
18 loading your truck, filling out paperwork, and checking your
19 routes, what time were you supposed to sign in?

20 A. We still sign, it was given we signed in at 8 o'clock. As
21 you can tell from the sheets, as you can tell from the sign-in
22 sheets.

23 Q. What if there was a morning meeting that started at
24 7:30 a.m., what time were you supposed to sign in on your time
25 sheets?

F5ILMCG4

Schantz - Direct

1 A. I believe it was sometimes we signed in for 7:30 on a
2 meeting, but not all the time.

3 Q. Do you recall ever signing in at 7:30 for a meeting and not
4 having it changed to 8 o'clock?

5 A. I don't recall, no.

6 Q. So as far as you can tell over here, you signed in at 7:30
7 but it was changed to 8 o'clock, correct?

8 A. Correct.

9 Q. And who told you you were supposed to sign in at 8 o'clock
10 every single morning no matter when you started doing work?

11 A. Angelo and Charlie.

12 Q. And when did they tell you that?

13 A. I guess when I kind of first got hired. I mean if you see
14 the one sheet, I guess I didn't really know really when we
15 signed in, I tried to sign 7:30 when I got there. And then it
16 looked like it was changed to eight. So they kind of let me
17 know that, you know, doesn't matter what time you get there.
18 We sign in and out for 4:30 unless all the time is approved for
19 the afternoon.

20 Q. Looking at this sheet, does it appear that anyone's time
21 has been changed, anybody else's time in has been changed?

22 A. Yeah, it looks like Kevin's was changed. And Ariel had a
23 seven there at one time and went to an eight over it.

24 Q. If you can go back to the previous page, the first page of
25 June 3, 2009, does it look like anybody else's time was changed

F5ILMCG4

Schantz - Direct

1 on this time sheet? If you can zoom in.

2 A. Yeah. I see Joe Frangiosa, Sal Fischetti, it looks like
3 7:30, that was changed to eight. Same thing with Buffalino and
4 Gandolfo.

5 Q. Did you make those changes?

6 A. I don't remember.

7 Q. Looking at the bottom over here, do you see where it says I
8 hereby certify that the above information is true and correct
9 at the very bottom of the sheet?

10 A. Yes, I see it.

11 Q. Who signed that at the bottom?

12 A. I believe that's Angelo's signature?

13 Q. You're not sure whose signature that is; is that correct?

14 A. I'm not sure. CK?

15 Q. Whose name is down there?

16 A. Angelo, Angelo Solimine.

17 Q. What does it say his title is?

18 A. General manager.

19 Q. So who certified that these time sheets were correct?

20 A. The general manager.

21 Q. Angelo?

22 A. Yes.

23 Q. Did you certify that these time sheets were correct?

24 A. No.

25 Q. Now, that's one time sheet that I'd like to show you. Now

F5ILMCG4

Schantz - Direct

1 I'd like to direct your attention to Exhibit 76. Can you in
2 your binder please go to Exhibit 76. Now, on Exhibit 76, if I
3 can direct you to November 16, 2009.

4 THE COURT: Are you offering this?

5 MR. BHANDARI: Sorry, your Honor. Can we please have
6 Plaintiff's Exhibit 76 entered into evidence.

7 MR. WITTELS: No objection.

8 THE COURT: Received.

9 (Plaintiff's Exhibit 76 received in evidence)

10 Q. Can I direct you to just one of the days inside Plaintiff's
11 Exhibit 76, which is November 16, 2009.

12 A. Okay.

13 Q. Now, looking at this document, can we pull it up, please,
14 can we go to the first page of this.

15 So looking at the November 16, 2009 sign-in sheet,
16 what is the time that everybody on the first page of this
17 sign-in sheet signed in?

18 A. 8 o'clock.

19 Q. And what is the time that everybody on this sign-in sheet
20 signed out?

21 A. 4:30.

22 Q. Now can you go to the second page. On this sign-in sheet,
23 on the second page, what is the time that everybody on this
24 sign-in sheet signed in?

25 A. 8 o'clock also.

F5ILMCG4

Schantz - Direct

1 Q. And with the exception of Scott Vaaler, who is your friend,
2 what is the time that every single person signed out?

3 A. 4:30.

4 Q. Now, do you see your name on here?

5 A. Yes, I do.

6 Q. And what time did you sign in?

7 A. Eight to 4:30.

8 Q. Now, I'm going to assume you don't, but do you remember
9 specifically what you did on November 16, 2009?

10 A. No.

11 Q. But what time would you have gotten to work if November 16,
12 2009 is typical of the time you would normally get to work?

13 A. 7 o'clock, ten to seven.

14 Q. And you signed in at 8 o'clock though, correct?

15 A. Correct.

16 Q. Were you doing work, if it was a typical day, would you
17 have been doing work that morning --

18 A. Yes.

19 Q. -- for CCI.

20 A. I was always doing work.

21 Q. Why would you sign in at 8 a.m.?

22 A. That's when we were told to sign in, eight to 4:30.

23 Q. And did every single person who worked at CCI get in at
24 exactly 8 o'clock?

25 A. No.

F5ILMCG4

Schantz - Direct

1 Q. Did people -- when did people get in, besides yourself,
2 when did other people get in, did they get in before or after
3 8 a.m.?

4 A. They got in before.

5 Q. Now looking at the time out, you signed out at 4:30 p.m.,
6 correct?

7 A. Correct.

8 Q. Does that mean on November 16, 2009, you definitely left
9 the CCI offices at exactly 4:30 p.m.?

10 A. No.

11 Q. Why would you sign out at 4:30 p.m. if you didn't leave the
12 office at exactly 4:30 p.m.?

13 A. That's when we signed out. You know, if I was there doing
14 paperwork or I got stuck in traffic on the way back, there was
15 no calling and getting proof for overtime for 20 minutes to
16 half an hour. So we signed out at 4:30.

17 Q. Now I'd like to stay here in Exhibit 76, if I can direct
18 you to -- sorry. Let me step back for a second and ask you a
19 couple more questions about this.

20 If you worked past, if you worked past 4:30 p.m.,
21 would you have to get approval to get overtime?

22 A. Yes.

23 Q. And did you ever get approval for overtime for doing your
24 end of the day routine, unloading your truck, filling out
25 paperwork, depositing your CN3?

F5ILMCG4

Schantz - Direct

1 A. No.

2 Q. Ever once, did you ever get paid overtime for doing that
3 work?

4 A. Not to the best of my recollection.

5 Q. Now I'd like to direct your attention to the same exhibit,
6 Exhibit 76, if you go to November 23, 2009, looking at the
7 November 23, 2009 sign-in sheet, what time did everybody sign
8 in on the first page?

9 A. 8 o'clock.

10 Q. And looking at the second page, what time did every single
11 person sign in on November 23 on the second page?

12 A. 8 o'clock.

13 Q. And what time did you sign in?

14 A. I signed in at eight.

15 Q. If you go back to the first page, can we look at that
16 again, what time did most people sign out on November 23, 2009?
17 Not every one. What is the most frequent number of the sign
18 out time?

19 A. 4:30 .

20 Q. And if you can go to the second page, what time did you
21 sign out on November 23, 2009?

22 A. I signed out at 6 o'clock.

23 Q. Okay. So on November 23, 2009, you didn't write in 4:30,
24 did you?

25 A. No.

F5ILMCG4

Schantz - Direct

1 Q. Do you have a specific recollection on why you signed out
2 at 6 p.m. on November 23, 2009?

3 A. I can't give you a particular answer, but there was a
4 reason why I got stuck out in the field to come back and sign
5 out at that time.

6 Q. So if you signed out at 6 p.m., would that mean that you
7 spoke to either Angelo or Charlie about getting approval for
8 your overtime?

9 A. Yes.

10 Q. And did you in fact get approval on November 23, 2009 for
11 your overtime?

12 A. That is what it looks like, yeah. I wouldn't have
13 6 o'clock if not.

14 Q. You wrote it down on the time sheet, you would get paid for
15 it, correct?

16 A. Yes.

17 Q. Every time you wrote down a time after 4:30 p.m., you would
18 in fact get paid your overtime, correct?

19 A. Yes, if it was approved.

20 Q. But it had to be approved, correct?

21 A. Yes.

22 Q. I'd like to show you another exhibit which is Exhibit 79.

23 MR. BHANDARI: And if I could have Exhibit 79 entered
24 into evidence.

25 MR. WITTELS: No objection.

F5ILMCG4

Schantz - Direct

1 THE COURT: Received.

2 (Plaintiff's Exhibit 79 received in evidence)

3 Q. On Exhibit 79, if we could look at the very first page,
4 which is February 1, 2010, now I'd like to just zoom in on this
5 a little bit. If we could look, if we could zoom in on the
6 time ins.

7 Mr. Schantz, does it appear any of the time ins have
8 been altered in any way?

9 A. Yeah, it looks like one of them or so is changed.

10 Q. And which one is that?

11 A. Buffalino, Charles Buffalino.

12 Q. Is it possible to figure out exactly what that change was?

13 A. No.

14 Q. Now going to the next page, do you see your name on here?

15 A. I do.

16 Q. And is that your social, the last four digits of your
17 social security number?

18 A. Yes, it is.

19 Q. Is that your signature at the end?

20 A. Yes.

21 Q. Now I'd like to draw your attention to a couple things.

22 The time in, what time is the number that's written on top, the
23 number --

24 A. 10 o'clock.

25 Q. Does appear that number was changed in any way?

F5ILMCG4

Schantz - Direct

1 A. It looks like it was written over.

2 Q. So this is an example of a day when your shift was supposed
3 to be 10 a.m. to 6:30 p.m., correct?

4 A. Correct.

5 Q. But you would have gotten there before 10 a.m., correct, in
6 order to start your 10 o'clock shift?

7 A. Yes.

8 Q. And did you write in 9 a.m.?

9 A. Not sure. I don't recall. Could be. There was definitely
10 another number under there.

11 Q. What time would you get in for your 10 o'clock shift?

12 A. About 9:15, give or take.

13 Q. Okay. So, Mr. Schantz, you can close that for now. I want
14 to ask you about something totally different.

15 During the day when you were out in the field -- so,
16 Mr. Schantz, we saw all of your sign-in sheets to the best of
17 your recollection show that you signed in at 8 a.m. every
18 morning, correct?

19 A. Correct.

20 Q. But you started work before 8 a.m. every single morning,
21 correct?

22 A. Correct.

23 Q. And most of your sign-in sheets showed that you signed in
24 at the end of what your regular shift was supposed to be, which
25 was usually 4:30 p.m., correct?

F5ILMCG4

Schantz - Direct

1 A. Yes.

2 Q. But you worked past 4:30 p.m. many times, correct?

3 A. Correct.

4 Q. And you didn't get overtime for that, correct?

5 A. No.

6 Q. Now, during your work day, did you ever eat food during the
7 day?

8 A. Yeah, I ate during the day.

9 Q. And you would eat, on a normal week, if it was a five-day
10 week, how many times during the week would you eat?

11 A. It depends. A lot of the eating was just on the fly, be on
12 the run going from one job to another, kind of like a bag
13 lunch. But a typical designated half-hour break, uninterrupted
14 break, probably about maybe once a week I'd get to sit down.

15 Q. Mr. Schantz, let me step you for a second. My question is
16 not how long it would take you to eat. It sounds like you
17 would eat five days a week, correct?

18 A. Yes.

19 Q. But you just testified that sometimes you would eat while
20 you were on the fly?

21 A. Correct.

22 Q. What do you mean by that?

23 A. A lot of the time.

24 Q. So what does that mean you would eat while you were on the
25 fly?

F5ILMCG4

Schantz - Direct

1 A. Well, we were just in the truck, we were going from one job
2 to the other. You had a sandwich in the bag and you were going
3 to eat, stuff like that. When I first started working with
4 Jimmy, he would have a bag lunch and I would pack a bag quick
5 and we would try to take five, ten minutes and shoot it down
6 and keep moving. There wasn't much down time to start off with
7 the job.

8 Q. And when you say you would eat in a few minutes and keep
9 moving, who would be driving the truck?

10 A. When I first started, Jimmy was driving the truck.

11 Q. And when you would drive the truck, you would actually eat
12 while you were driving?

13 A. Pretty much, yeah.

14 Q. You said one day a week you would take a full half-hour
15 uninterrupted lunch, correct?

16 A. Yes, try to.

17 Q. What would you do for that uninterrupted lunch?

18 A. Maybe stop pizzeria or Chinese food or something to that
19 extent, if you had time.

20 Q. Now, I'd like to -- before I do that, did anyone ever talk
21 to you about eating lunch while you were working in CCI?

22 A. Yes.

23 Q. Who spoke to you about eating lunch while you were working
24 at CCI?

25 A. Charlie.

F5ILMCG4

Schantz - Direct

1 Q. Charlie Loguidice?

2 A. Charlie Loguidice, yes.

3 Q. What did Mr. Loguidice tell you about eating lunch?

4 A. He said, basically he said if you don't take your lunch,
5 just you got to get the jobs done, you know. If you have time
6 to take a lunch, you take it. If not, if it's going to affect
7 your numbers, then you don't have time to take a lunch.

8 Q. And at some point did you ever start signing a document
9 which was referred to as break sheets?

10 A. Yes.

11 MR. BHANDARI: Your Honor, I'd like to have entered
12 into evidence Defendant's Exhibit P. However, we only have one
13 copy of the binder ourselves, and I think your Honor should
14 have the defendant's volume two. And then we need one copy for
15 the witness or we can show it to him on the screen.

16 May I approach, your Honor?

17 THE COURT: Yes.

18 MR. BHANDARI: Your Honor, we'd like to have Exhibit P
19 entered into evidence.

20 MR. WITTELS: No objection.

21 THE COURT: Received.

22 (Defendant's Exhibit P received in evidence)

23 MR. BHANDARI: Can we pull it up.

24 Q. All right, Mr. Schantz. So this is Defendant's Exhibit P.
25 Do you recognize what this document is, just generally what

F5ILMCG4

Schantz - Direct

1 it's called?

2 A. It was a break sheet.

3 Q. And the date on this break sheet is August 23, 2010, if you
4 look at the very bottom, correct?

5 A. Yes.

6 Q. And according to the top, if you look at the top right-hand
7 corner, it says the week starting and the week ending, correct?

8 A. Yes.

9 Q. And so what was the week for this break sheet?

10 A. It was August 17 to August 23.

11 Q. So this was August 17 to August 23, 2010, correct?

12 A. Correct.

13 Q. When did you start working at CCI?

14 A. I started working May 20, 2009.

15 Q. So when did you first start filling out these weekly time
16 sheet with breaks?

17 A. Probably around that time. It wasn't -- it was probably
18 about a year and a half into the contract or so.

19 Q. So just so we're clear on this, when you first started
20 working at CCI in May of 2009, did you fill out weekly time
21 sheets?

22 A. No.

23 Q. Sorry. I asked that question wrong.

24 Did you fill out weekly time sheets with breaks?

25 A. No.

F5ILMCG4

Schantz - Direct

1 Q. And approximately a year to a year and a half later is when
2 you first started filling out the weekly time sheets with
3 breaks; is that right?

4 A. Yes.

5 Q. And who asked you to start filling out these weekly time
6 sheets with breaks?

7 A. Charlie Loguidice.

8 Q. And what did he tell you about filling out these time
9 sheets?

10 A. He said it's a new protocol and you got to document when
11 you're taking your breaks, they need to know.

12 Q. And did he tell you how long your breaks were supposed to
13 be for a morning break and for a meal break?

14 A. No.

15 Q. He didn't tell you how long they were supposed to be?

16 A. No.

17 Q. Well, you filled in times on these break sheets, correct?

18 A. Right.

19 Q. Did you actually take breaks and meals at these times?

20 A. No.

21 Q. So why did you fill -- why did you fill in these break
22 sheets with meals and breaks at these times if you didn't
23 actually take the meals and breaks?

24 A. We filled them out. That's what we were told to do, we
25 needed to sign. It was part of our paperwork. Whether we took

F5ILMCG4

Schantz - Direct

1 a break or not, it had to get done.

2 Q. So let's start at the top. There's two parts to each of
3 these sheets, correct, a top and a bottom half?

4 A. Yes.

5 Q. And for the bottom half, there's kind of a gray line which
6 says meal break to the far left. Do you see that?

7 A. Yes.

8 Q. How long were you expected to write in for your meal break?

9 A. Fifteen minutes for your break, and for your lunch break, a
10 half-hour.

11 Q. Who told you that you were supposed to do 15 minutes for
12 your break and half-hour for your lunch?

13 A. I believe it was Charlie.

14 Q. And did you write down 15 minutes for your break and a
15 half-hour for your lunch every day?

16 A. I did, yes. That's what I was told to do.

17 Q. Now, would you fill these out each day when you took the
18 break and took the lunch?

19 A. No.

20 Q. When would you fill these out?

21 A. Sometimes at the end of the week. Sometimes it was prior
22 to the week. It was one less piece of paperwork that I had to
23 get done for the week. Sometimes I filled it out prior.

24 Q. Is it your understanding that Mr. Loguidice knew that you
25 were not actually taking lunch on the times when you said you

F5ILMCG4

Schantz - Direct

1 were taking lunch?

2 THE COURT: Sustained.

3 MR. BHANDARI: All right.

4 Q. Did you tell Mr. Loguidice that you were taking lunch every
5 single day?

6 A. Personally?

7 Q. Yeah, did you ever tell Mr. Loguidice that?

8 A. No.

9 Q. When -- you said that Mr. Loguidice or Mr. Solimine would
10 call you when you were out in the field, correct?

11 A. Correct.

12 Q. Did they ever tell you to take lunch?

13 A. No.

14 Q. Did they ever ask you if you were taking lunch?

15 A. No.

16 Q. And they would call you how many times a day in a typical
17 day?

18 A. Depending, two, three times a day.

19 Q. And would they ever come out and visit you when you were
20 out in the field?

21 A. Sometimes.

22 Q. And when they came out to visit you, did they ever tell you
23 you need to take a lunch?

24 A. No.

25 Q. Were you ever told by anybody at CCI that you must in fact

F5ILMCG4

Schantz - Direct

1 take a lunch?

2 A. No.

3 Q. But did people at CCI tell you that you had to fill out
4 these time sheet with breaks every single week?

5 A. Right.

6 Q. Why did you do it if you knew that the information was
7 wrong?

8 A. I just -- we did it because that's what we were told to do.
9 I was told to fill out the break sheet. Like I said, most of
10 the time I filled out prior. And when I was filling it out, if
11 you look at the numbers, they're all arbitrarily numbers,
12 different numbers. It made it easy for me to add 15 and add
13 30.

14 Q. You have different numbers every single day, it appears.
15 Why did you do that?

16 A. No reason for it. Just tried to maybe make look a little
17 more official.

18 Q. And why were you trying to make it look official?

19 A. I was keen on my paperwork and I always wanted everything,
20 you know, to look good.

21 Q. Let's talk about your paperwork a little bit.

22 THE COURT: I wonder, counsel, if this is a good time
23 to give the jury their afternoon break.

24 MR. BHANDARI: Absolutely.

25 THE COURT: Good. We'll take a 15-minute break.

F5c1mcg5

1 (In open court; jury not present)

2 THE COURT: So my law clerk is going to hand each
3 counsel a copy of the proposed preliminary instruction. I do
4 this pretty much in every case where I give the jury a heads up
5 as to the basic issues on the second day of trial. So take a
6 look at this tonight. If you have any proposed additions or
7 corrections or suggestions, email them to my law clerk no later
8 than 9:00 tomorrow morning and we'll take it up when we
9 reconvene early tomorrow afternoon. In that regard, we will
10 probably start tomorrow at 1:30 and go till 5.

11 All right. Let's bring in the jury.

12 MR. WITTELS: Judge, if I may.

13 THE COURT: Yes.

14 MR. WITTELS: Can you give us the email address.

15 THE COURT: Pardon?

16 MR. WITTELS: Her email address?

17 THE COURT: Oh, you don't have that?

18 MR. WITTELS: I don't know if I have it.

19 THE COURT: Okay.

20 (Discussion off the record)

21 (Jury present)

22 THE COURT: Okay. Juror no. 2, do you want to come to
23 the sidebar, please. With counsel.

24 (At the sidebar)

25 THE COURT: So I've received a note from Ms. Tyson,

F5c1mcg5

1 juror no. 2:

2 "Dear Judge Rakoff: I've been feeling increasingly
3 ill yesterday and today. Diarrhea. I was unfortunately bit by
4 a cat on Friday, and I noticed today that it is very red and
5 more swollen throughout the whole area. I spoke with
6 Ms. Kotowski and showed her the wound. She is concerned and
7 asked me to write you this note. Thank you."

8 So thank you very much.

9 JUROR: Do you want to see it?

10 THE COURT: No, I'm -- oh, yes. Oh, yes. Look at
11 that. It is really quite -- being myself a dog lover, all I
12 can tell you is, you've got to watch out for those cats.

13 JUROR: Yes.

14 THE COURT: So anyway --

15 JUROR: I'm taking care of the cat for somebody.

16 THE COURT: All right. I think between that and your
17 issue with your mother, I think I'm going to excuse you, but
18 thank you so much for bringing that to my attention.

19 JUROR: What should I do in terms of the jury pool?
20 Like should I inform them that I'm not sure that I'll be in
21 tomorrow?

22 THE COURT: No. I'm going to tell them right now that
23 due to a combination of circumstances -- they've heard about
24 your mother so they --

25 JUROR: I don't want to waste everybody's time, but --

F5c1mcg5

1 THE COURT: That due to a combination of
2 circumstances, it has made it appropriate to excuse you. You
3 just go back to the jury room and get your stuff and leave.
4 You should not discuss the case, however, with anyone. Okay?

5 JUROR: No, not at all.

6 (Continued on next page)

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F5c1mcg5

Schantz - Direct

1 (In open court)

2 THE COURT: Ladies and gentlemen, a combination of
3 circumstances, some of which you heard about earlier, makes it
4 appropriate to excuse juror no. 2.

5 So what I'm going to ask you to do is, juror no. 3,
6 can you move over one. Everyone should just basically move one
7 seat. Juror no. 3 is now juror no. 2. Congratulations. And
8 so forth. You know, keeping the same order, but just moving
9 over. And then that will make it nice and cozy.

10 All right. Very good. Let's continue.

11 BY MR. BHANDARI:

12 Q. Good afternoon again, Mr. Schantz. You know you're still
13 under oath, correct?

14 A. Correct.

15 Q. Now right before we took our break we were talking a little
16 bit about paperwork. Do you remember that, Mr. Schantz?

17 A. Yes.

18 Q. Now did you hear in the opening statement when CCI's
19 attorney said that plaintiffs had destroyed evidence relating
20 to their hours? Did you hear him say that?

21 A. Yes, I did.

22 Q. Let me ask you this: First, you testified earlier that you
23 made photocopies of paperwork when you went to the CCI offices
24 in the morning, correct?

25 A. Correct.

F5c1mcg5

Schantz - Direct

1 Q. What paperwork would you make copies of?

2 A. The paperwork I would make a copy of was my work report for
3 the day and some of the grid sheets and the AMR sheets.

4 Q. Can I show you -- this is a different binder.

5 MR. BHANDARI: Your Honor, would I be able to present
6 the witness and you with a different binder?

7 THE COURT: Yes.

8 MR. BHANDARI: This is plaintiff's trial binder IV.

9 THE COURT: Oh, he's going to be so excited to have
10 another binder like that.

11 Go ahead.

12 MR. BHANDARI: May I approach.

13 THE COURT: Yes.

14 MR. BHANDARI: Okay. Thank you.

15 BY MR. BHANDARI:

16 Q. I'd like to draw your attention to Plaintiff's Exhibit 118.

17 MR. BHANDARI: I'd like to have Plaintiff's
18 Exhibit 118 entered into evidence.

19 THE COURT: Any objection?

20 MR. WITTELS: Judge, I'm -- could we approach at the
21 sidebar real quick.

22 THE COURT: Well, hold on a minute. If necessary, you
23 can approach, but give me in one word the nature of the
24 objection.

25 MR. WITTELS: Foundation.

F5c1mcg5

Schantz - Direct

1 THE COURT: Foundation. All right. Lay a foundation.

2 BY MR. BHANDARI:

3 Q. Okay. Mr. Schantz, do you recognize the general type of
4 document that is Plaintiff's Exhibit 118?

5 A. In 118?

6 Q. Yes.

7 A. Yes.

8 Q. Sorry. What is 118?

9 A. Daily worksheet.

10 Q. Is that like a route sheet?

11 A. I wouldn't call it a route sheet. I would just call it
12 your final, you know, your daily schedule, your daily route
13 work.

14 Q. Okay. And when would a document like this be filled out in
15 general?

16 A. Throughout the day and a lot of times when you came back.

17 THE COURT: Who fills this out?

18 THE WITNESS: The installers.

19 Q. And for example, you were an installer, correct?

20 A. Right.

21 Q. Now on this one, the last name is Frische, correct?

22 A. Yes.

23 Q. And do you know an installer whose name is Frische?

24 A. Yes, I do.

25 Q. What was his full name?

F5c1mcg5

Schantz - Direct

1 A. Joe Frische.

2 Q. And is this, generally speaking, the type of record that
3 was kept by the installers when they were doing their job on
4 the AMR project?

5 A. Yes.

6 Q. But you did not create this particular grid sheet, correct?

7 A. No, I didn't.

8 MR. BHANDARI: Okay. Your Honor, we would like to
9 move it into evidence as a business record.

10 THE COURT: So if defense counsel is challenging that,
11 you may have voir dire.

12 MR. WITTELS: Thank you, Judge.

13 VOIR DIRE EXAMINATION

14 BY MR. WITTELS:

15 Q. Mr. Schantz, you didn't fill out anything on this sheet,
16 correct?

17 A. That I'm looking at here?

18 Q. Exhibit 118.

19 A. No, I didn't.

20 Q. None of that's your handwriting, correct?

21 A. Correct.

22 Q. You've never seen that sheet, couldn't testify as to the
23 veracity of the information written down on that sheet,
24 correct?

25 A. Well, with the information I could look at it and get a

F5c1mcg5

Schantz - Direct

1 general idea of what his day was like.

2 Q. His day but not your day.

3 A. No.

4 Q. And you didn't keep this record in your normal course, this
5 particular document, in your record.

6 A. This record, correct.

7 MR. WITTELS: That's all I have.

8 THE COURT: Who keeps these records normally, if you
9 know?

10 THE WITNESS: Well, everybody had a different kind of
11 system where they kept their stuff, but as any installer, some
12 guys photocopied their paperwork for their -- for their daily
13 day, just in case down the road if anything -- there was a
14 problem or if you were asked about a particular account, you
15 were able to go back on it and recollect.

16 THE COURT: So, for example, in this case Mr. Frische,
17 assuming he filled it out, he would have kept it?

18 THE WITNESS: Well, the -- he would have photocopied
19 it, he would have kept one for himself, and then one of these
20 would go to the -- to Angelo's desk.

21 THE COURT: And remind me who Angelo was.

22 THE WITNESS: Angelo is the project manager.

23 THE COURT: And this would have been filled out for
24 each day?

25 THE WITNESS: Yes, by each -- each person, or each

F5c1mcg5

Schantz - Direct

1 team.

2 THE COURT: And then at least a copy given to Angelo
3 at the end of the day?

4 THE WITNESS: At the end of the day.

5 THE COURT: Well, on the objection of foundation, I
6 will receive this as a business record. However, I'm not yet
7 prepared to admit this particular one into evidence because you
8 haven't established relevance vis-à-vis this witness. So the
9 immediate objection is overruled, but you now need to establish
10 relevance, if you can.

11 MR. BHANDARI: Sure.

12 BY MR. BHANDARI:

13 Q. Did you, Mr. Schantz, create paperwork similar to
14 Plaintiff's Exhibit 118?

15 A. Yes.

16 Q. Okay. And when you created that paperwork, did you also
17 make copies for yourself?

18 A. I did.

19 Q. Now this particular type of document, which you made copies
20 of for yourself, did this indicate the number of hours that you
21 worked when you created such documents for yourself?

22 A. No, it doesn't.

23 MR. BHANDARI: Your Honor, I just want to get it
24 entered into evidence for the type of record that's similar to
25 the one he had. Well, let me ask a few more questions.

F5c1mcg5

Schantz - Direct

1 Q. Did you keep copies of these grid sheets for a certain
2 period of time after you made photocopies?

3 A. I built them up. I tried to keep them for at least a few
4 months after the work was complete.

5 Q. Then what would you do with them after a few months?

6 A. I would discard them.

7 Q. And so these documents which you discarded, you created
8 grid sheets and then you discarded them, correct?

9 A. Yes, after a while they stacked up, you know, I'd bring
10 them home and then I'd try to get rid of them.

11 Q. Were the grid sheets you created substantially similar to
12 the grid sheets that were created by Mr. Frische that are
13 Plaintiff's Exhibit 118?

14 A. Yes.

15 Q. And did those grid sheets that are Plaintiff's 118 contain
16 any indication of the hours worked by Mr. Frische?

17 A. No.

18 Q. Did the grid sheets you created have any indication of the
19 hours you worked?

20 A. No.

21 Q. And you don't have those grid sheets that you created
22 anymore, correct?

23 A. I don't have them anymore, no.

24 MR. BHANDARI: Your Honor, I'd like to have
25 Plaintiff's Exhibit 118 entered into evidence simply --

F5c1mcg5

Schantz - Direct

1 THE COURT: I still don't think it has more than the
2 most remote relevance, and whatever relevance it may have at
3 this point with this document, the potential for confusion
4 outweighs the relevance, so it is not admitted, without
5 prejudice to your admitting it through some witness that it's
6 more relevant to.

7 MR. BHANDARI: All right. Understood, your Honor.
8 Thank you.

9 BY MR. BHANDARI:

10 Q. So let's talk about your paperwork in general. Do you have
11 any paperwork that you copied when you were working at CCI
12 currently?

13 A. Currently, no.

14 Q. And you discarded it before coming to court here today,
15 correct?

16 A. Yeah, way back, you know, long back.

17 Q. Did any of the documents you had indicate the hours that
18 you worked, as far as you can remember?

19 A. No, none of the paperwork that I kept had any of the hours
20 on it, just the work that was done.

21 Q. And did you discard it for any reason related to this
22 lawsuit?

23 A. No.

24 Q. Now let's go to a different topic. Have you heard of
25 something called the incentive program?

F5c1mcg5

Schantz - Direct

1 A. Yes.

2 Q. What was the incentive program when you were working at
3 CCI?

4 A. If you hit a certain amount of jobs throughout the day, you
5 could go home early.

6 Q. Do you remember what the number of jobs were that you had
7 to hit in order to go home early?

8 A. They seemed to range from -- the best of my recollection,
9 it was equivalency of about eight or ten meters.

10 Q. And did you ever get to go home early as part of the
11 incentive program?

12 A. I might have took advantage of it maybe once or twice.

13 Q. So thinking back, did you participate in the incentive
14 program on more than two occasions?

15 A. Not that I recall, no.

16 Q. So you worked there from May of 2009 till December of 2011,
17 correct?

18 A. Correct.

19 Q. And during that entire period of time you only recall
20 taking part in the incentive program on two occasions, is that
21 correct?

22 A. Two occasions. Maybe -- maybe three.

23 Q. Do you remember any of them?

24 A. No, I don't.

25 Q. So tell me how you -- if you finished the number of meters

F5c1mcg5

Schantz - Direct

1 that you were supposed to finish, would you just get to go
2 straight home?

3 A. No.

4 Q. How did the incentive program work? What would you have to
5 do before you could go home?

6 A. It was -- you'd have to call either Charlie or Angelo and
7 let them know what the numbers were, did I hit the incentive,
8 and it seemed that some of the numbers ranged, you know --
9 sometimes guys would go home doing eight meters and some guys
10 would be told try to get a couple more. There was no set
11 number. So you always call not knowing if you really did hit
12 the incentive.

13 Q. And did you call up sometimes asking if you hit the
14 incentive and the answer was no?

15 A. Maybe one time.

16 Q. Did you try hard to participate in the incentive program
17 yourself?

18 A. I was a team player out there. I know there was a lot of
19 guys struggling out there, and it didn't feel right to leave
20 guys high and dry out there that were struggling to make their
21 numbers, so I didn't make it a big part of my job career or an
22 incentive for me.

23 Q. So let's say you hit the number that was the number of
24 meters you changed in order to be able to go home early. What
25 would you do on a typical day after hitting that number?

F5c1mcg5

Schantz - Direct

1 A. On a typical day, after hitting that number, I would try to
2 reach out to the field, see who needs a bump, you know what I
3 mean, a little help out there, you know, rather than just
4 calling up and not worrying. Some of the guys, they didn't
5 care. They just -- they fled. You know, guys are out there
6 struggling. I wasn't -- I was more a team player.

7 Q. How would you reach out to the other guys in the field?

8 A. On the -- on the Nextel phone, you know, you could do like
9 a group or you could talk to Charlie or Angelo, see if anybody
10 needs help, you know.

11 Q. And so again, to just be clear on this, between May of 2009
12 and December of 2011, you participated in the incentive program
13 two or three times, is that correct?

14 A. Yes.

15 Q. Could it have been more than that?

16 A. I don't think it was more than that, no.

17 Q. Now when did the incentive program -- you started in May of
18 2009. Was the incentive program in place from the very first
19 day you started?

20 A. No.

21 Q. So when did the incentive program even get started? Was it
22 one month after, a few months after? Do you remember when?

23 A. At least a few months. Could be maybe a half a year. I'm
24 not exactly sure.

25 Q. And did there come a time towards the end of the project

F5c1mcg5

Schantz - Direct

1 when the incentive program wasn't in place?

2 A. I believe so, yes.

3 Q. And do you remember when that was?

4 A. Towards the end, you know, when -- when everybody was
5 loaded with appointments, you basically had to stick around
6 'cause you had to wait for the afternoon appointments.

7 Q. Now earlier you testified that you had a truck and you
8 would load up the truck in the mornings and you would unload
9 the truck in the afternoons, is that correct?

10 A. Correct.

11 Q. And that was a company car?

12 A. It was a company car, yes.

13 Q. And when you had a company car, were you responsible for
14 maintenance on the company car?

15 A. We were. We were responsible for -- for oil change and
16 brake changes and maintenance of a weekly wash.

17 Q. When you say a weekly wash, what do you mean by that?

18 A. Well, every week they wanted your truck, you know, to start
19 off the week very, you know, clean. Towards the end of the
20 week you kind of washed the truck.

21 Q. When would you wash the truck, would you wash the truck
22 while you were on a shift?

23 A. No. It was usually on the weekends or after your shift was
24 over.

25 Q. And when would you change the oil?

F5c1mcg5

Schantz - Direct

1 A. The oil I would change when it was -- when it was due, you
2 know, after every 3,000. I would usually try to do that on a
3 weekend too or when I was off, at a local oil spot.

4 Q. How long would it take you to wash the car?

5 A. Half hour to an hour.

6 Q. And how long would it take you to change the oil in the
7 car?

8 A. Same thing; half hour to an hour.

9 Q. And approximately how many months would it be between oil
10 changes? You wouldn't do that every month, right?

11 A. No. It was probably maybe every two or three months.

12 Q. And did you get compensated for any of the time that you
13 spent giving the car washes or doing oil changes?

14 A. Well, they paid -- if you brought the receipt, they paid
15 for the -- for the oil change, but not the time.

16 MR. BHANDARI: All right. Mr. Schantz, thank you very
17 much. I have no further questions at this time.

18 THE COURT: Cross examination.

19 MR. WITTELS: Thank you, your Honor.

20 MR. BHANDARI: Oh, I'm so sorry. I'm absolutely
21 sorry. I actually have one entire area of questioning that I
22 have. I'm sorry. Would you mind. I apologize to everyone for
23 that.

24 BY MR. BHANDARI:

25 Q. Sorry, Mr. Schantz. So this is -- I just want to be clear

F5c1mcg5

Schantz - Direct

1 about the time that you were working at CCI that you did not
2 get paid for.

3 So starting in the mornings, what time would you
4 typically get there and start doing work?

5 A. Typically 7:00, 10 to 7.

6 Q. You would get to CCI before 7, correct?

7 A. Yes.

8 Q. Well, what would you do before 7 a.m., before they opened
9 the gates?

10 A. I would wait in the truck or take a look at my stock and
11 clean up, tidy stuff up, maybe finish some last-minute
12 paperwork.

13 Q. And then starting at 7 a.m., what would you be doing?

14 A. Starting at 7 a.m., once the gate opened up, I would get my
15 route materials, CN3 and paperwork.

16 Q. So on a typical day, how much time -- you'd be working
17 between 7 a.m. and 8 a.m. on a typical day, is that correct?

18 A. Yes.

19 Q. But you never signed in before 8 a.m., is that correct?

20 A. Correct.

21 Q. Okay. So is it correct that you did approximately one hour
22 of work in the morning on a typical day that you did not get
23 paid for?

24 A. Yes. One hour, yes.

25 Q. In the afternoons, you said that it took you approximately

F5c1mcg5

Schantz - Direct

1 20 or 30 minutes to finish your checkout routine, correct?

2 A. Yes.

3 Q. Now some days you would get back to the office at 4:30,
4 correct?

5 A. Yes.

6 Q. And on those days you would get out between 4:50 and 5:00,
7 is that correct?

8 A. Yes.

9 Q. Would you ever get back to the office after 4:30 p.m. or
10 after 6:30 p.m. for the different shift but not get paid
11 overtime?

12 A. Can you repeat that one more time.

13 Q. Sure. Would you ever get back to the office after
14 4:30 p.m. but not get paid overtime?

15 A. Yes.

16 Q. So this question is, on days when you got back to the
17 office after 4:30 p.m. but did not get paid overtime, what
18 would be the average time that you'd be getting back to the
19 office on a day where you were not getting overtime but you
20 were coming back after 4:30 p.m.?

21 A. I would try to get back for about maybe a quarter after 4,
22 20 after 4, try to get back to it, knowing that to get all
23 wrapped up and said and done is another 20, 30 minutes.

24 Q. So some days you'd get back to the office at about 4:40 or
25 4:45 and then it would take you another 20 minutes to half

F5c1mcg5

Schantz - Direct

1 hour, correct?

2 A. Yes.

3 Q. So that would mean that you'd get out of the office between
4 5:15 and 5:30 on those days, is that correct?

5 A. If I got back that late, yes.

6 Q. But you didn't get back that late every day, correct?

7 A. No.

8 Q. In fact, fair number of days you got back at 4:30 or
9 before, correct?

10 A. Yes. That's what I tried to shoot for.

11 Q. So on average, if you took all of this on the days where
12 you got out at 5:30 on some days and you got -- you came back
13 to the office and you got out by 4:30, you'd leave the CCI
14 office at 4:30, if you averaged it all together, what would you
15 say did is the average time on a typical day that you would be
16 leaving the CCI office?

17 A. The average time?

18 Q. Yes.

19 A. Usually about 4:40 to 10 to 5.

20 Q. Okay.

21 A. Approximately. Around there. Give or take. If I got back
22 at 4:15, I might be able to get out of there by 4:40, but
23 sometimes when I got back at 4:30, it was close to 5:00.

24 Q. And some days you'd get back at 4:45 and it would be closer
25 to 5:15.

F5c1mcg5

Schantz - Direct

1 A. Yes.

2 Q. So would it be fair to say on a typical day, on average,
3 some days it would be an hour after 4:30? If you left at 5:30,
4 that would be an hour later, correct?

5 A. Yes.

6 Q. But some days you'd get out at 4:30, correct?

7 A. Yes.

8 Q. And some days you might even get out at 4:15, correct?

9 A. Yes.

10 Q. But if you average it all out together, fair to say that it
11 was between 4:50 and 5:00, 20 to 30 minutes would be the extra
12 overtime at the end of the day?

13 A. Yes. Yeah.

14 Q. Okay. So let's say that it is 20 to 30 minutes. 30
15 minutes would be a half hour, correct?

16 A. Okay.

17 Q. And 20 minutes would be 1/3 of an hour, correct?

18 A. Yeah, right.

19 Q. So halfway between 1/3 and a half hour -- this is where it
20 gets tricky -- is .4, between .41 and .42, I believe. So let's
21 just say it's .4. Can we round out and make it .4?

22 A. Yes.

23 Q. So in the afternoon it would be a little bit less than a
24 half hour on average that you were given time, if we round out
25 a little bit, correct?

F5c1mcg5

Schantz - Direct

1 A. Correct.

2 Q. Now for lunches, you testified one day a week you took a
3 full half-hour lunch, correct, uninterrupted, with an
4 uninterrupted lunch one day a week, correct?

5 A. Tried for one day a week, yes.

6 Q. But four days out of the week, typically, you would be
7 eating on the run, correct?

8 A. Yes.

9 Q. And so you'd be going from one job to another, is that
10 right?

11 A. Correct. Sometimes not eating at all.

12 Q. Sometimes not eating at all?

13 A. Yes.

14 Q. So if we just take those four days and it's a half hour
15 each day, that comes to two hours. Four times a half hour
16 comes to two hours, which is 120 minutes?

17 A. Okay.

18 Q. So let's say on a typical day -- if we take that 120
19 minutes each week and then we break it down to five days, which
20 is a normal week, that comes to -- if you divide 120 by 5, I
believe that comes to 24 minutes a day. So that's, again, a
22 little bit more than a third of an hour. So between -- yeah,
23 it's a little bit more than a third of an hour. So can we say
24 that that's a .3?

25 A. Yes.

F5c1mcg5

Schantz - Direct

1 Q. Okay. So again, rounding down. Actually, that would be --
2 sorry. Can we figure out exactly what that is? I don't want
3 to round down all of your time, and on that one we should be
4 able to do it. I just can't do it. I'm sorry.

5 MR. BHANDARI: .4? Oh, so it's .4 also.

6 Q. So 24 minutes is .4. So that means on a typical day, if
7 you had one hour of unpaid time in the morning and then you
8 would work 20 to 30 minutes of unpaid time in the afternoon and
9 you would not have lunch, an uninterrupted lunch, that comes to
10 a total of 1.8 hours on a typical day. Is that correct?

11 A. Correct.

12 Q. And what was the approximate -- what was the amount you
13 were supposed to get paid each day? What was your base rate,
14 if you remember?

15 A. Base rate?

16 Q. Yeah.

17 A. Daily base rate?

18 Q. Hourly.

19 A. Hourly was \$45 an hour.

20 Q. Okay. Around \$45 an hour?

21 A. Yes.

22 MR. BHANDARI: Okay. Thank you. I have no further
23 questions.

24 THE WITNESS: Thank you.

25 THE COURT: All right. Cross examination.

F5c1mcg5

Schantz - Cross

1 MR. WITTELS: Thank you, Judge.

2 CROSS EXAMINATION

3 BY MR. WITTELS:

4 Q. Mr. Schantz, during the time that you worked at CCI, there
5 was in fact an overtime policy, isn't that correct?

6 A. Yes.

7 Q. And the overtime policy was that you got paid overtime if
8 you worked more than 40 hours a week, correct?

9 A. Correct.

10 Q. Now we started to get into records and records that you
11 kept and records that you didn't keep. You kept records of the
12 actual work that you performed at least for some period of
13 time, correct?

14 A. Correct.

15 Q. And that was your choice, correct?

16 A. Yes, it was.

17 Q. All right. The company didn't require you to make copies
18 of your records, right?

19 A. Didn't require it.

20 Q. And it was something that you thought benefited you,
21 correct?

22 A. Me and the company itself.

23 Q. And on these records that you kept for your own personal
24 use, you didn't record any of the times that you worked any
25 day, correct?

F5c1mcg5

Schantz - Cross

1 A. No, I didn't take any recordings.

2 Q. And you didn't keep records of the hours that you worked
3 because you didn't need to, right?

4 A. Most of the time, yes.

5 Q. Because you knew you worked 40 hours a week every week,
6 there was no reason to keep track of your hours, right?

7 A. Yes.

8 Q. But you didn't work 40 hours every week, isn't that
9 correct?

10 A. Correct.

11 Q. You're testifying here today that there were weeks that you
12 worked more than 40 hours, correct?

13 A. Yes.

14 Q. And you had no record of that, correct?

15 A. It was never recorded, no.

16 Q. And there were weeks that you worked less than 40 hours
17 even if we add -- if I can see the chart. Looks like 1.8 hours
18 a day. If we add the 1.8 hours a day that you're now
19 testifying to, there were still weeks that you didn't work 40
20 hours, right?

21 A. Yes.

22 Q. You were still working for CCI at the time this lawsuit was
23 filed, correct?

24 A. Correct.

25 Q. And it was brought to your attention that this very lawsuit

F5c1mcg5

Schantz - Cross

1 that we're here today on was filed by one of your ex-coworkers,
2 correct?

3 A. Yes.

4 Q. And even after learning that the lawsuit had been filed,
5 you kept no record of the hours that you worked, correct?

6 A. Correct.

7 Q. Now you knew that there was a sign-in sheet, and we -- I
8 think the exhibit book is in front of you that has any
9 number -- 500 pages of sign-in sheets, correct?

10 A. Correct.

11 Q. You knew there was a sign-in sheet and it was your
12 responsibility on a daily basis to sign in and sign out,
13 correct?

14 A. Correct.

15 Q. No one could sign in for you, correct?

16 A. No.

17 Q. No, not correct? Someone could sign in for you?

18 A. No, nobody could sign in for you.

19 Q. And nobody was allowed to sign out for you.

20 A. No.

21 THE COURT: No meaning correct.

22 THE WITNESS: Correct, yes. But I believe it did
23 happen -- it happened a few times, yeah.

24 Q. And you weren't supposed to sign in or out for any other
25 employee, correct?

F5c1mcg5

Schantz - Cross

1 A. Yes.

2 MR. WITTELS: Judge, if I may approach the witness.

3 THE COURT: Yes.

4 MR. WITTELS: This is Exhibit II.

5 Q. I've handed you Exhibit Defendant's II and ask you to turn
6 to page 2 of that exhibit.

7 First of all, is that your signature that appears?

8 A. We are looking at the daily sign-in one or --

9 Q. Yes, the daily sign-in one.

10 A. That is my signature.

11 Q. All right. And --

12 MR. BHANDARI: Sorry. I'm looking at II. Oh, there's
13 a revised II?

14 MR. WITTELS: Yes.

15 MR. BHANDARI: Oh, okay.

16 Q. That's your signature that appears, correct?

17 A. Correct.

18 Q. And --

19 THE COURT: Excuse me. On both papers? Both pages?

20 THE WITNESS: On both pages, yes.

21 Q. And on --

22 THE COURT: Are you offering II?

23 MR. WITTELS: I am offering II, Judge.

24 THE COURT: Any objection?

25 MR. BHANDARI: Only I would ask if we could get a copy

F5c1mcg5

Schantz - Cross

1 of that, because that's not in the exhibit binder we have.

2 THE COURT: All right. Let me have my law clerk hand
3 you my copy so we can move this along.

4 MR. BHANDARI: Thank you. No objection.

5 THE COURT: Received.

6 (Defendant's Exhibit II received in evidence)

7 BY MR. WITTELS:

8 Q. And what's the date on that document?

9 A. The date is 7/24/09.

10 Q. So July 24th of '09 is when you executed that document,
11 correct?

12 A. Correct.

13 Q. And it states that it's your responsibility to sign in and
14 out every day, correct?

15 A. Yes.

16 Q. And it states that you're to state the correct start time
17 and end time of each day, correct?

18 A. Correct.

19 Q. And it states that falsifying the sign-in/signout sheet is
20 a serious company offense, correct?

21 A. Correct.

22 Q. So you understood the significance of the sign-in/signout
23 sheet on a daily basis, right?

24 A. Correct.

25 Q. You knew that that sheet was being turned in to DEP to

F5c1mcg5

Schantz - Cross

1 verify your working hours, correct?

2 A. That I didn't know it was getting turned in to the DEP, but
3 now I know.

4 Q. Does the exhibit indicate that DEP is requiring the
5 sign-in/signout sheet, one of the things that you acknowledged?

6 A. Yes, it does.

7 Q. At some point -- August, I believe, 24th was the exhibit
8 that was put up before -- you began filling in meal break
9 sheets, correct? I believe that's Exhibit P that is still in
10 front of you.

11 A. Okay. Correct.

12 Q. Defendant's Exhibit P. If you'd take a look at it. It's
13 not in the binder. It's the looseleaf pages that are up there.
14 Correct?

15 A. Yes.

16 Q. And you've now told us today that you didn't take the
17 breaks that are indicated on the meal break sheet, correct?

18 A. Correct.

19 Q. And it's your testimony that Charlie just told you to fill
20 in whatever you wanted to fill in but you'd better fill in
21 something, right?

22 A. It had to get filled in, yes.

23 Q. Is that your signature? You have a whole stack of those
24 break sheets, is that right, in front of you?

25 A. Yes.

F5c1mcg5

Schantz - Cross

1 Q. If you'll take a second to look through them.

2 A. Okay.

3 Q. You signed each and every one of those weekly break sheets,
4 didn't you?

5 A. I did.

6 Q. And by signing it, you've attested to the information as
7 true, you swore that the information was true, correct?

8 A. Correct.

9 Q. And now you're telling us all that none of it is true,
10 correct?

11 A. Correct.

12 Q. Besides Charlie and Angelo, or Mr. Loguidice and
13 Mr. Solimine, did you ever tell anybody at CCI that you were
14 falsifying your records?

15 A. No.

16 Q. You knew that you were supposed to take a half-hour meal
17 break, correct?

18 A. Correct.

19 Q. And your testimony is that on average once a week you took
20 a half-hour meal break.

21 A. Correct.

22 Q. And that was the whole time that you worked at CCI,
23 correct?

24 A. Yes.

25 Q. Day one through December 9, 2011, on average, once a week,

F5c1mcg5

Schantz - Cross

1 you took a meal break.

2 A. On average, yes.

3 Q. No one told you what time you were supposed to take a meal
4 break, correct?

5 A. No.

6 Q. You had the discretion to take a meal break when and where
7 you wanted to take that break.

8 A. Sometimes.

9 Q. Sometimes. So you're out in the field, Charlie didn't ride
10 with you, correct?

11 A. No, he didn't.

12 Q. Angelo didn't ride with you.

13 A. No.

14 Q. If you wanted to take a break at Burger King, you could
15 take a break at Burger King, if that was your choice.

16 A. Yeah, if I was caught up on my work.

17 Q. And your testimony is you didn't take a meal break 'cause
18 you couldn't get your work done, correct?

19 A. Correct. That was one of the reasons why I didn't have
20 time to take a break. The job was very demanding.

21 Q. You also testified that you, two to three times in your
22 entire career, took advantage of the incentive program,
23 correct?

24 A. Correct.

25 Q. Now there were other days that you finished the amount of

F5c1mcg5

Schantz - Cross

1 the quota that you chose to help other workers work; that's
2 what you testified to, correct?

3 A. Yes.

4 Q. That was your choice, correct?

5 A. Well, it was never told that you hit the quota and you can
6 go home or you can stay, you know.

7 Q. But it was your choice not to even call Mr. Loguidice or
8 Mr. Solimine and see if you could go home; you decided on your
9 own to go help other coworkers, correct?

10 A. Correct.

11 Q. When you were eligible, could have called in, maybe you
12 would have been given permission, maybe you wouldn't have, but
13 you didn't even try to call in, correct?

14 A. Correct.

15 Q. On those two or three days that you did take advantage of
16 the incentive, you got credit for working a full day even
17 though you didn't work a full day, correct?

18 A. Correct.

19 Q. But you were given eight hours' credit for working,
20 correct?

21 A. I was, yes.

22 Q. Now there were some guys that you worked with that took
23 advantage of that incentive program almost on a daily basis,
24 weren't there?

25 A. I don't know about on a daily basis.

F5c1mcg5

Schantz - Cross

1 Q. Well, your friend Scott Vaaler, who got you the job, left
2 early a lot, didn't he?

3 A. I believe so.

4 Q. And it was almost a daily basis for him to leave early;
5 call in, get quota, leave early.

6 A. At some point in the contract.

7 Q. Anthony Buffalino did the same thing, correct?

8 A. Yes.

9 Q. Were you ever paired with Scott Vaaler when he was going
10 home early?

11 A. No.

12 Q. Were you ever paired with Anthony Buffalino when he was
13 going home early?

14 A. Not that I recall, no.

15 Q. You testified that you lived, during the time that you
16 worked for CCI, in Hicksville, New York, correct?

17 A. Correct.

18 Q. If you left your house at 6 in the morning, how long did it
19 take you to get to the Ridgewood, Queens office of CCI on an
20 average day of commuting?

21 A. Average day, probably about 40, 40 minutes.

22 Q. All right.

23 A. 45 minutes.

24 Q. So if you left at 6, you pulled up in Ridgewood around
25 6:45-ish, correct?

F5c1mcg5

Schantz - Cross

1 A. Correct.

2 Q. If you left your house at 7, how long would the commute be?

3 A. The commute would be longer, an extra 15.

4 Q. 20, 30, 40 minutes sometimes?

5 A. Yeah, maybe double the time, yeah, double the amount of
6 time.

7 Q. If you left at 7 from your house, you would never make it
8 to work on time at 8:00, would you?

9 A. No.

10 Q. So you left your house early for your convenience so that
11 you would avoid traffic and be able to get to work on time,
12 correct?

13 A. Not for my convenience. I left early so I could get there
14 so I had substantial amount of time to properly do my job.

15 Q. And when you got there at 6:45, you couldn't go in to work,
16 right? You couldn't go into the facility?

17 A. No. It was usually locked.

18 Q. Gates were drawn and locked, right? And Mr. Solimine and
19 Mr. Loguidice and some of the other management people were
20 inside working, getting the equipment ready for the day and
21 routing, preparing the handhelds and doing routing so that you
22 could get to work when they opened up, correct?

23 THE COURT: Sustained.

24 MR. WITTELS: I will rephrase.

25 THE COURT: Good idea.

F5c1mcg5

Schantz - Cross

1 MR. WITTELS: Thank you, Judge.

2 Q. Mr. Loguidice and Mr. Solimine were at work before 7:00.

3 A. No, not every day. That's -- no.

4 Q. There were management personnel at work before 7:00 every
5 day.

6 A. Yes.

7 Q. And one of the things they were doing was routing, correct?

8 A. Correct.

9 Q. And one of the other things they were doing was gathering
10 the equipment and organizing it for you to pick up in the
11 morning.

12 A. Yes.

13 Q. You didn't go through the warehouse and pick out your own
14 water meters, correct?

15 A. Sometimes you did.

16 Q. All right. Most of the days the boxes of water meters were
17 set, ready for you to pick up when you got there.

18 A. Towards the beginning, yeah.

19 Q. You were actually -- well, nobody ever beat you to work,
20 did they, of the plumbers?

21 A. Bobby Gandolfo was there most of the time when I showed up.

22 Q. But either you or Bobby were always the first to be there.

23 A. Pretty much.

24 Q. You testified that you worked on some of the paperwork from
25 the day before, correct?

F5c1mcg5

Schantz - Cross

1 A. Yes.

2 Q. You didn't finish that on the day that it was supposed to
3 be turned in and so you came in early, you say, and did some of
4 your paperwork.

5 A. Right.

6 Q. When you turned in the meters the night before, were you
7 supposed to turn in the tags for the meters?

8 A. The tags? Can you repeat that?

9 Q. The seals.

10 A. Okay. Yes.

11 Q. And the seal cards.

12 A. Yeah, right. The meter sheet.

13 Q. You weren't supposed to turn in a meter without a seal
14 card.

15 A. Well, the meters were turned in without -- the seal cards
16 weren't given every day or every week. They were kind of just
17 taken when you can give them to them.

18 Q. But once you turned in a meter, you couldn't fill out a
19 seal card 'cause you no longer had the information.

20 A. Well, you had your -- the information was on your grid
21 sheet. That was one of the reasons why I photocopied my -- my
22 jobs, work, so I can go back and fill out seal cards when I had
23 time.

24 Q. And did Charlie tolerate turning in meters without seal
25 cards?

F5c1mcg5

Schantz - Cross

1 A. Yeah. I remember there was -- the one time, I'm not sure
2 exactly when it was, but they were all collecting seal cards.
3 It was months that went by where they collected any of the seal
4 cards. Some guys were giving them in, some guys weren't. We
5 had to rewrite our seal cards. I remember guys staying up
6 overnight to fill out the seal cards, 'cause they needed them.

7 Q. One of the things that you did when you say that you stayed
8 after hours is that you made copies of your work for that day,
9 correct?

10 A. Correct.

11 Q. And a lot of the plumbers did that, correct?

12 A. A lot of guys had their own system of keeping their
13 paperwork, yes.

14 Q. A lot of them copied their paperwork for their records.

15 Yes?

16 A. Yes.

17 Q. You personally did not like turning in messy work, correct?

18 A. Right. Well, if it wasn't legible, we would hear it, you
19 know, if they couldn't read it.

20 Q. But you had a thing about making sure that your work that
21 you turned in looked nice and was presentable, correct?

22 A. Correct.

23 Q. So a lot of times you'd come back to the office and redo
24 the paperwork that you had been doing during the day because it
25 was messy and you wanted it to look nice, correct?

F5c1mcg5

Schantz - Cross

1 A. Because it wasn't legible, you know, there was times your
2 hands were blackened and you're dealing with one piece of paper
3 in an eight-hour day and multiple entries and you can imagine
4 what it looks like, you know.

5 Q. You didn't like turning in messy work.

6 A. Right, that wasn't legible.

7 Q. No one at CCI told you to redo your paperwork on all those
8 occasions, did they?

9 A. No. But there were times when people -- they were told
10 that, we can't read your paperwork, we don't understand what
11 this is.

12 Q. That was other people, not you.

13 A. Maybe once or twice, which caused me to be so anal about
14 keeping my paperwork neat.

15 Q. When you were interviewed -- I believe you testified you
16 were interviewed by Mr. Loguidice and Mr. Solimine, correct?

17 A. Correct.

18 Q. And they offered you -- one or the other offered you a job.
19 correct?

20 A. Not that day.

21 Q. No, but eventually, when you were made the offer, it came
22 from --

23 A. Yeah, a couple days later, Angelo called.

24 Q. Right. And when the job was over in December, it was
25 Mr. Solimine who told you that the job for you was over,

F5c1mcg5

Schantz - Cross

1 correct?

2 A. Correct.

3 Q. On a daily basis you either reported to Mr. Loguidice or to
4 Mr. Solimine, correct?

5 A. Yes.

6 Q. They set your hours, correct?

7 A. They did.

8 Q. They set your work assignments, correct?

9 A. Correct.

10 Q. They determined your schedule, correct?

11 A. They did.

12 Q. Mr. Maguire, sitting here, didn't hire you or fire you,
13 correct?

14 A. No.

15 Q. And he didn't supervise you at all, correct?

16 A. Correct.

17 Q. He didn't set your work schedule or your work conditions,
18 correct?

19 MR. BHANDARI: Objection. Calls for speculation.

20 THE COURT: No. I think it could be answered to his
knowledge. Overruled.

22 Q. He never told you what your work shift was, did he,
23 Mr. Maguire?

24 A. No.

25 Q. And he never told you what your work assignments were, did

F5c1mcg5

Schantz - Cross

1 he?

2 A. No, but there were times when Angelo or Charlie had to make
3 a decision and told the crew that it was Tim Wertz or Mike
4 Maguire's decision as far as getting rid of guys and furloughs
5 and stuff like that.

6 Q. Okay. So we'll see when those people testify if that's
7 accurate or not. But they never told you --

8 MR. BHANDARI: Objection.

9 THE COURT: The comment of counsel will be stricken.

10 Put a question.

11 Q. He didn't determine your rate of pay, did he?

12 A. Not to my knowledge.

13 Q. The prevailing wage was determined by the city of New York,
14 by contract, right?

15 A. Yes.

16 Q. And you never received a directive, a direct order from
17 Mr. Maguire to you, correct?

18 A. No direct order.

19 Q. All right. And you never received a direct instruction
20 from Mr. Maguire to you. correct?

21 A. I had called him one time during the contract. Never, you
22 know, any particular --

23 Q. You called him one time.

24 A. Right.

25 Q. 'Cause you had a question about the contract?

F5c1mcg5

Schantz - Cross

1 A. No.

2 Q. What did you call him for?

3 A. I called him, there was -- I had a problem with Angelo, so
4 I had called him and just wanted to explain to him what
5 happened, you know, I feared for my job at the time.

6 Q. And did somebody from corporate respond to you?

7 A. Actually, I talked to Mike on the phone.

8 Q. Who talked to Mike on the phone?

9 A. Me.

10 Q. And that was one time.

11 A. One time.

12 Q. Mr. Wertz didn't hire you or fire you, correct?

13 A. Correct.

14 Q. He didn't supervise your work schedule, control your
15 workday, that you know of, right?

16 A. Not that I know of.

17 Q. He didn't determine your rate of pay.

18 A. No.

19 Q. He didn't determine how you got paid, did he, to your
20 knowledge?

21 A. Not to my knowledge.

22 Q. And to your knowledge he didn't maintain your employment
23 records, right, to your knowledge?

24 A. To my knowledge, no.

25 Q. You never received a directive from Mr. Wertz, correct?

F5c1mcg5

Schantz - Cross

1 A. Correct.

2 Q. And you never received an order or an instruction from
3 Mr. Wertz, correct?

4 A. Correct.

5 Q. And in fact, you didn't really even know who Mr. Wertz was
6 before this lawsuit came about, isn't that correct?

7 A. Yeah, I didn't really -- didn't see him much.

8 Q. Didn't see him much, never talked to him, didn't have any
9 contact with him at all.

10 A. No.

11 Q. There were certain employees, certain plumbers, who you've
12 testified were the early birds, correct?

13 A. Yes.

14 Q. And there were certain employees who were the late birds,
15 weren't there?

16 A. They came later, yes.

17 Q. There were several occasions when you actually had to have
18 a meeting postponed because certain workers weren't there at
19 8:00, couldn't start the meeting; do you recall those?

20 A. Not -- not to my recollection.

21 Q. And most of the crew you testified got there around 7:30,
22 not 7 like you, correct?

23 A. Correct.

24 Q. Now there were times I believe you testified that you were
25 sent home early because you weren't producing, correct?

F5c1mcg5

Schantz - Cross

1 A. Yes.

2 Q. And you signed out early on those days, correct?

3 A. I did.

4 Q. That was a form of punishment?

5 A. I don't know if it was punishment. It was -- it was just a
6 decision I may make.

7 Q. You just weren't getting any work done so you might as well
8 just go home, right?

9 A. Right.

10 Q. On Exhibit 71, the sign-in sheets, you don't know who
11 changed any of the -- you went through three or four examples
12 with Mr. Bhandari about what appeared to be changes on those
13 sheets. You don't know who made any changes at all, do you?

14 A. I don't know, no. Can just tell by looking at them that
15 they were altered.

16 Q. Were there times that you signed in incorrectly and had to
17 re-sign in, that you recall?

18 A. One of the guys maybe signed on the wrong spot and then the
19 whole sheet had to get re-signed.

20 Q. Were there any times that you did that?

21 A. Not that I recall.

22 Q. And the incentive program you indicated started not right
23 away, right? Not in May of 2009, correct?

24 A. Correct.

25 Q. But sometime in 2009, within a few months of you being

F5c1mcg5

Schantz - Cross

1 there, that program began.

2 A. I'd say yeah, within six months, I believe.

3 Q. And the 1.8 hours on this chart, that's your claim of how
4 many hours on average per day you worked but were not given
5 credit for, correct?

6 A. Correct.

7 Q. You don't know, as you sit here, if the 1.8 hours are all
8 overtime or not, correct?

9 A. I'm not sure.

10 MR. WITTELS: Nothing further, Judge.

11 THE COURT: All right. Any redirect?

12 MR. BHANDARI: Yes, just a few questions.

13 REDIRECT EXAMINATION

14 BY MR. BHANDARI:

15 Q. Mr. Schantz, you were asked earlier whether it was the CCI
16 policy to pay overtime if you worked overtime, correct?

17 A. Correct.

18 Q. And you answered yes to that. Do you remember that?

19 A. Yes.

20 Q. Was it CCI's policy to pay overtime if you worked overtime
21 or was it CCI's policy to pay for overtime if that overtime was
22 previously approved by either Angelo or Charlie?

23 A. If it was approved.

24 Q. Okay. So did CCI have a policy -- in fact, did Angelo or
25 Charlie tell you that that was the policy, that the only

F5c1mcg5

Schantz - Redirect

1 overtime that would be paid was overtime that they had
2 approved?

3 A. Had to be preapproval, yes.

4 Q. You were asked earlier whether or not other people got
5 there at around 7:30 instead of 7 a.m. like you. Do you
6 remember being asked that question?

7 A. Yes.

8 Q. But you didn't arrive at the offices of CCI at 7 a.m., did
9 you? You arrived before then.

10 A. Most of the time before, yes.

11 Q. What time would you arrive?

12 A. Anywhere between quarter to and 7.

13 Q. And you said that Bobby Gandolfo was there sometimes before
14 you?

15 A. Yes.

16 Q. You're not seeking any overtime for the period of time
17 between 6:45 and 7 a.m., are you?

18 A. No.

19 Q. Now the other people who arrived after you, did some of
20 them also arrive before 7 a.m., even though they arrived after
21 you?

22 A. There was a couple guys.

23 Q. And the other people who we went over when we looked at
24 Exhibit SS --

25 A. Right.

F5c1mcg5

Schantz - Redirect

1 Q. -- you said that pretty much everybody on Exhibit SS
2 arrived before 7:30, is that correct?

3 A. Correct.

4 Q. And so what was the range of time when everyone arrived on
5 the project, as far as you know?

6 A. The range of time?

7 Q. Yes.

8 A. Between 7:00 and 20 to 8.

9 Q. And would the same people arrive at 7:00 every day?

10 A. Yeah, it was kind of like the same faces came the same
11 time.

12 Q. And you were asked earlier if you knew that --

13 Do you recall being asked on cross examination if you
14 were aware that a lawsuit was filed, this lawsuit was filed
15 while you were still working at CCI?

16 A. Yes.

17 Q. And do you recall when you learned that this lawsuit was
18 filed?

19 A. Don't recall exactly when, but just, you know, hearsay
20 that, you know, there was going to be -- Mike McGlone was going
21 to be suing the company.

22 Q. And you left CCI in 2011, correct?

23 A. Correct.

24 Q. And this lawsuit was filed in 2011, correct?

25 A. Yes.

F5c1mcg5

Schantz - Redirect

1 Q. Did anybody ever tell you that you needed to start keeping
2 different records of your time in connection with this lawsuit?

3 A. No.

4 Q. Did anybody ever ask for you to give testimony in this case
5 prior to you testifying here today? Sorry. Let me rephrase
6 that question. Withdrawn.

7 Did you ever sit for a deposition in this case?

8 A. Yes.

9 Q. And did you sit for a deposition in 2011?

10 A. I believe it was 2012, maybe.

11 Q. And who deposed you?

12 A. The two gentlemen right there.

13 Q. And when they deposed you, did they ask you for your time
14 records?

15 MR. WITTELS: Judge, I'm going to object.

16 A. Not that I recall.

17 THE COURT: Sustained.

18 Q. Now you testified before about being sent home early on
19 occasion. Do you recall that?

20 A. Yes.

21 Q. How often would that happen?

22 A. Depending on, you know -- it seemed to happen more in the
23 deep -- deep of the winter, when things were really cold and a
24 little snowy out there, but there were times it happened or
25 once a month.

F5c1mcg5

Schantz - Redirect

1 Q. During winters?

2 A. Yeah.

3 Q. And so the winters --

4 A. Maybe twice a month.

5 Q. And the winters would be what months? What months do you
6 consider to be winter?

7 A. December through March.

8 Q. So it happened once or twice from December through March,
9 correct?

10 A. Right.

11 Q. And you testified -- or you were asked for some weeks you
12 worked less than 40 hours. Do you remember being asked about
13 that?

14 A. Yes.

15 Q. Have you done any calculations to know how many hours you
16 worked every single week after you added in 1.8 each day?

17 A. No.

18 Q. Did you know for sure if you worked more than 40 hours or
19 less than 40 hours on any given week?

20 A. Nothing written down, no.

21 (Continued on next page)

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F5IAAMCG6

Schantz - Redirect.

1 MR. BHANDAR: What documents would you need to see in
2 order to be able to do the calculation to see if you add 1.8
3 hours to the amount you work every single week, whether or not
4 you in fact did work one to 40 hours some weeks.

5 A. I guess at time sheets.

6 Q. Have you done that math? Did you look at all the time
7 sheets and add 1.8 hours to every single day to decide whether
8 or not you worked more than 40 hours in some weeks?

9 A. No.

10 Q. You were asked if you knew you were supposed to take a half
11 hour meal break; do you remember that?

12 A. Yes.

13 Q. Were you ever told to take a half hour meal break?

14 A. We were just fill out the sheets. It wasn't followed up
15 like the boss is going to say, you guys are taking lunch,
16 right? I have had other jobs before where the boss, the
17 supervisors are making sure, you guys are taking lunch, right?
18 And it was never asked, you know.

19 Q. And in fact, what were you told about taking lunch?

20 A. That if you didn't take it the sheet gets filled out either
21 way.

22 Q. And what do you think would happen to you if you didn't
23 fill out the sheet as you were asked to do?

24 A. I think I would have a problem, some type of problem if you
25 see everybody filling out the sheets.

F5IAAMCG6

Schantz - Redirect.

1 Q. What type of problem did you think you might have?

2 A. Just a problem going against the grain, you know.

3 Q. What did you think might happen?

4 THE COURT: Sustained.

5 Q. You testified that you called Mr. McGuire during the time
6 period between because you feared for your job; do you recall
7 that testimony?

8 A. Yes.

9 Q. What did you discuss with Mr. McGuire on that phone call?

10 A. I just had discussed with him me and Angelo had a
11 difference and kind of behind closed doors, went into like an
12 argument and stuff like that. He sent me home. Said I was
13 suspended. And so I just wanted to let Mike McGuire know what
14 happened. Angelo kind of, he got a little out of control and
15 was throwing stuff around and pushing desks and chairs. And
16 you know, I was just trying to explain to him that we just we
17 had a hurricane on my route that Saturday. There were trees
18 down all over the neighborhood. I don't know if you remember
19 back when we got hit. And the numbers weren't great. So I was
20 just sticking up for myself. He said it was unacceptable and I
21 should step it up.

22 Q. Who told you it was unacceptable?

23 A. Anglo.

24 Q. What did he tell you was unacceptable?

25 A. The numbers that day. There was no reason for the numbers

F5IAAMCG6

Schantz - Redirect.

1 to be that low. Meanwhile we could barely get around the
2 neighborhood cause of the trees and fences down every where.
3 So we had -- we kind of escalated. I guess, he didn't like
4 what I had to say in front of the guys and sent guys off to
5 work and brought me in his office with, I believe it was Kelly
6 and Charlie. And it was just seemed very unprofessional the
7 way he went about it. So I just wanted to kind of document it
8 to the higher ups.

9 Q. Why did you call Mr. McGuire?

10 A. The reason why I feared for my Job, I was actually -- I was
11 told hearsay -- that somebody overheard.

12 MR. WITTELS: Objection.

13 THE COURT: Sustained.

14 Q. Why did you fear for your job?

15 A. The reason -- well, somebody overheard Anglo saying that I
16 was --

17 MR. WITTELS: Still objecting that he head overheard.

18 THE COURT: Well, see, you did not object, counsel, to
19 the original question which was, why did he fear for his job.
20 And that necessarily involves the state of his mind. So this
21 will be received not for its truth but for his state of mind.

22 Overruled.

23 Q. So again, why did you fear for your job, Mr. Schantz?

24 A. I was told that somebody had overheard in the next room
25 that Anglo said that my days were numbered. So by seeing what

F5IAAMCG6

Schantz - Redirect.

1 everything was going on prior to me I was like, I'm done, you
2 know. Even though I was one of the better guys, you know
3 didn't matter.

4 Q. When you say you were one of the "better guys" what does --

5 THE COURT: No. We are getting so far beyond what I
6 consider reasonable redirect that it's going terminate in two
7 minutes. You can ask two minutes worth of questions, counsel,
8 about the one that I just sustained the clever objection to.

9 MR. BHANDAR: OK. Sorry. I missed it. I can or
10 cannot ask the question?

11 THE COURT: You cannot.

12 MR. BHANDAR: OK. Understood.

13 Q. So Mr. Schantz, was it important to you to make sure that
14 your numbers were consistent with what Anglo and Charlie
15 expected the numbers to be?

16 A. It was, yes.

17 MR. BHANDAR: I have no further questions.

18 THE COURT: All right. Anything else from defense
19 counsel?

20 MR. WITTELS: No, recross.

21 THE COURT: Thank you very much. You may step down.

22 All right. Ladies and gentlemen, so we're off to a
23 good start and your reward is you don't have to sit tomorrow
24 morning. As I had told had you when you first were sworn in,
25 we will start at 1:30 tomorrow. Because it's a short day we

F5IAAMCG6

Schantz - Redirect.

1 will probably go till five. We'll never go beyond five but we
2 will tomorrow go to five. So, we'll see you tomorrow at 1:30.
3 Have a very good evening.

4 (Jury not present)

5 THE COURT: Please, be seated.

6 All right. Anything counsel needs to raise with the
7 Court?

8 MR. WITTELS: Yes, your Honor. If we could approach
9 because I really don't want to say it --

10 THE COURT: OK.

11 (Continued on next page)

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F5IAAMCG6

Schantz - Redirect.

1 (Sidebar)

2 THE COURT: Yes.

3 MR. WITTELS: It appeared to me, your Honor, that
4 Juror No. Seven, new number seven was taking notes on a
5 notepad.

6 THE COURT: Yes. That's totally permitted.

7 MR. BHANDAR: I didn't know because there was no
8 instruction about it.

9 THE COURT: My policy is I don't tell them they have
10 to but I have no problem if they wish to. I know there are
11 some jurisdictions where it's forbidden and I've always felt
12 that that was irrational. But for me to say that in a written
13 opinion would require me taking notes and I don't think I
14 should do that.

15 MR. WITTELS: Well said.

16 MR. BHANDAR: Your Honor, I have two other things.

17 THE COURT: Sure.

18 MR. BHANDAR: One, I believe on the phone last week
19 you had said that Thursday was going to be a half day also.

20 THE COURT: No, that's not longer. I've changed
21 things around.

22 MR. BHANDAR: Then the second is, we have two nonparty
23 witnesses who we subpoenaed who are coming tomorrow. They were
24 not supposed to -- they are not next on our witness list but we
25 would like to call them out of order.

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Schantz - Redirect.

1 MR. WITTELS: No objection.

2 THE COURT: Very good.

3 MR. WITTELS: Let me make sure I understand. They
4 will be the first two?

5 MR. BHANDAR: Yes. We told them to be here at one
6 o'clock.

7 THE COURT: All right. So since we're at the sidebar,
8 I have another matter that is about to start so just clear the
9 stuff away including the easel and we'll see you tomorrow at
10 1:30.

11 (Adjourned to Tuesday, May 19, 2015 A 1:30 p.m.)

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